

Title 16

KREMMLING SUBDIVISION REGULATIONS

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16.01 - General Provisions

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16.01.010 Title.

This Title shall be known as the Kremmling Subdivision Regulations. (Ord. 435 §1, 1998)

16.01.020 Authority.

The Town Board of Trustees hereby finds, determines, and declares that it has the power to adopt the Kremmling Subdivision Regulations pursuant to sections 29-20-104, 31-23-213 and 31-23-214 of Colorado Revised Statutes. (Ord. 435 §1, 1998)

16.01.030 Purpose.

These subdivision regulations are intended and designed to protect the health, safety and welfare of the citizens of the Town by:

1. Helping to ensure the orderly and efficient development of the Town;
2. Establishing minimum standards for the design of land subdivisions to ensure that all public and private facilities are provided while also protecting the land form, streams, wildlife, and vegetation from the effects of development such as erosion, pollution, loss of wetlands and open spaces, and other forms of environmental deterioration;
3. Apportioning the costs of public services and facilities serving subdivision residents through the payment of fees, provision of facilities, and dedication of land and rights-of-way to the Town in order to assure that new development pays its way and does not burden the Town's

fiscal resources;

4. Requiring disclosure to purchasers of known, suspected, or potential hazards;
5. Assuring future buyers of land that the subdivider owns the land proposed to be sold, provides access to each building site, and constructs and provides for the maintenance of improvements, utilities, and amenities;
6. Obtaining accurate surveying and a permanent public record of the separate interests created by subdivision.

(Ord. 435 §1, 1998)

16.01.040 Compliance required; Jurisdiction.

1. From and after the effective date of these regulations, it shall be unlawful for any person, corporation, partnership, joint venture, or other entity to subdivide or develop real property, sell any real property or transfer any interest in real property, including a condominium interest, which is part of a subdivision of a larger tract of land, which has not been approved by the Town for subdivision if applicable, nor shall any person, or entity offer for recording any deed conveying such land, or any interests therein in the Town of Kremmling, unless there shall be on file with the Grand County Clerk and Recorder a final plat of said subdivision, having the endorsement thereon of the appropriate Town authority.
2. These subdivision regulations shall apply to any lands annexed to the Town; to any lands within the Town that are not subdivided and will be subdivided, or are subdivided and will be re-subdivided; to any lands within the Town that have no publicly dedicated streets providing access to each subdivided lot, tract or parcel; to any lands within the Town which are not zoned and for which zoning for a nonagricultural use is requested, and to a P.U.D. application for more than eight (8) lots, tracts or parcels.
3. No interest in land shall be transferred, conveyed, sold, subdivided or acquired to create or extend a nonconformity, or to avoid or circumvent any provision of these subdivision regulations.
4. No construction of major subdivision improvements shall be started until:
 - a. The final plan, including the subdivision improvement agreement, has been approved by the Town in accordance with these subdivision regulations, and
 - b. The final plat has been approved by the Town and recorded. After the improvement plans have been filed, as part of the final plan, and the approval of the Town has been obtained, the subdivider shall construct the required improvements according to the approved or properly amended improvement plans.
5. A written agreement to sell or lease an interest in land which is expressly conditioned upon full compliance by the seller with these subdivision regulations within a specified period of time, and which expressly recites that seller's failure to satisfy such condition within said period of time may terminate the agreement and entitle the buyer to the prompt return of all consideration paid by buyer, at buyer's option, shall not constitute a violation of these subdivision regulations.
6. No building permits of any kind for the construction of any building or other improvements upon

any land to which these regulations apply, shall be issued by the Town Planning Director or any other administrative officer of the Town, unless and until all requirements of these Subdivision Regulations have been met including demonstrating that the building site has access to a public street.

(Ord. 435 §1, 1998)

16.01.050 Interpretation.

1. Existing subdivision agreements and covenants: This title shall not apply to final plats recorded prior to the effective date of the ordinance codifying these subdivision regulations unless all or any portion of lands within the property depicted on the final plat is proposed for re-subdivision in such manner as to fall within the definition of a subdivision under these subdivision regulations. In the instance of areas of land contained within a recorded subdivision or the original Town plat which are proposed for re-subdivision into new parcels the re-subdivision shall comply with all provisions of these subdivision regulations, except for those which, in the opinion of the Planning Commission, have substantially complied with the requirements of these subdivision regulations prior to the original filing. These subdivision regulations are not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of private agreements or restrictive covenants running with land to which the Town is a party. Where these subdivision regulations impose a greater restriction than that imposed by an existing easement, covenant, or other private agreement, the provisions of these subdivision regulations shall govern.
2. Public provisions: This Title is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law not specifically repealed in the ordinance codifying these subdivision regulations. Where any provision of these subdivision regulations imposes a restriction or standard different from those imposed by any other ordinance, rule, or regulation, or other provision of law, the more restrictive or the higher standard shall control.

(Ord. 435 §1, 1998)

16.01.060 Save harmless clause.

As a condition of subdivision approval, the landowner shall agree to save the Town, its officers, employees and agents harmless from any and all costs, including reasonable attorneys' fees, damages and liabilities which may occur, by reason of any work performed upon any subdivision platted under these regulations. This condition shall be contained in the Subdivision Improvements Agreement executed by the landowner as part of the subdivision of land. (Ord. 435 §1, 1998)

16.01.070 Disclaimer of liability.

These subdivision regulations shall not be construed as imposing upon the Town, or any official or employee of the Town, any liability or responsibility for damages of any kind to any person or property by reason of these subdivision regulations. (Ord. 435 §1, 1998)

16.01.080 Presumption of validity.

All provisions of these subdivision regulations are presumed to be valid and enforceable. In any challenge to the validity of any provision hereof, the burden of proof shall rest with the person bringing the challenge. (Ord. 435 §1, 1998)

16.02 - Definitions

The following words and phrases shall have the meaning indicated. Where terms or phrases are not defined, the commonly understood meanings shall apply.

“Alternate Transportation Facilities” means any structures, land areas or other infrastructure designed to facilitate transportation that does not use, or is not dependent upon, automobiles.

“Board” means the Kremmling Board of Trustees.

“Building Site” means the lot, tract, or parcel area required or used for the construction or location of buildings. This is a generic term for land that may be conveyed to individuals for construction of improvements. (*See* Title 17)

“Cluster” means to place all the development on a smaller portion of the property leaving a larger percentage of the property open and unencumbered with buildings, streets or other development. Clustered is not dispersed.

“Comprehensive Plan” means the Kremmling Comprehensive Plan. A master plan for the physical development of the Town, adopted by the Kremmling Board of Trustees, including any areas outside of the Town’s boundaries, subject to Colorado Revised Statutes 31-23-206 and 31-12-105(1)(e), which in the Board’s judgment bear relation to the planning of the Town. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the Board’s recommendations for the development of said territory. As the work of making the whole Comprehensive Plan progresses, the Board may from time to time adopt and publish parts thereof. The Board may amend, extend, delete or add to the Comprehensive Plan from time to time.

“Duplex Residential Unit” means any residential structure containing two (2) attached dwelling units.

“Easement” means a right granted by the property owner, generally established in a real estate deed or on a recorded plat, to permit the use of land by the public, a public agency, a utility, a business entity or particular persons for a specified purpose or use.

“Excessive Slope Review Area” - *See* Title 16-18.B. of the Town Code.

“Final Decision” means a written decision on a specific application for subdivision which has been rendered by the Planning Commission or Town Board of Trustees, as the case may be.

“Floor Area” means the sum of the horizontal areas of all floors and areas with the potential to contain more horizontal floors, as measured from the exterior faces of the walls, including enclosed porches. The floor area of basements, as defined by the Uniform Building Code, shall not be included.

“Front Tract or Parcel Line” means the property line dividing a tract or parcel from the street, or in the absence of a street, from an alley. On a corner tract or parcel, only one street shall be considered as a front tract or parcel line, and the shorter street frontage shall be considered the front tract or parcel line unless permission otherwise is granted by the Planning Commission. On a corner lot which is square, the front tract or parcel line shall be determined by the Planning

Commission.

“Flood Plain” means any area subject to a one percent or greater chance of flooding in any given year, or the area that can be anticipated to be inundated by the one-hundred-year frequency storm.

“Ghosting” refers to a technique for drawing which lightly places objects or lines on a drawing for reference purposes with the proposed development. Usually objects or other lines that are shown by ghosting are drawn lightly with dashed lines.

“Hazardous Areas” include flood plains, rock fall, land slide and debris flow areas, wildfire areas, thirty percent (30%) or greater slopes, and other areas posing a risk to public health or safety.

“High Quality Wetland” means a wetland that performs most of the following functions to a high degree: ground water recharge, ground water discharge, flood storage, sediment retention, shore line anchoring, water quality improvement, wildlife habitat, food chain support, and fish habitat. The Planning Commission is the body that makes the final determination about whether a wetland is a high quality wetland.

“Hydrologic Gradients” means the elevation differences between the water table in different portions of a wetland study area.

“Improvement Plans” means the plans submitted by the subdivider that describe how the subdivision will be built. They include but are not limited to the following: site plans, landscaping plans, grading plans, utility plans, re-vegetation plans, and dust abatement plans.

“Lot” - *See* Building Site.

“Lower Quality Wetlands” means wetlands that are not high quality. Evidence of low quality may include, but is not limited to low diversity of vegetation, stream widening, loss of riparian vegetation or lowered water tables.

“Major Subdivision” means a subdivision having the characteristics set forth in section 16.04.020.2. of these Subdivision Regulations.

“Minor Subdivision” means a subdivision having the characteristics set forth in section 16.04.020.1 of these Subdivision Regulations.

“Multifamily Residential Unit” means any residential structure containing three (3) or more attached dwelling units.

“Open Lands” means lands preserved in perpetuity by the subdivider to be open and free of all buildings or structures, or other impediments to being preserved as an open area. Some structures may be allowed such as agricultural barns, but only as agreed to by the Town. Open lands typically include but are not limited to the following: unique and/or fragile areas, steep slopes, critical or significant wildlife habitat, historically significant structures and sites, and areas which have historically provided, or are reasonably identified as desirable for, open space or public access to public lands.

“Open Space” means areas of land that are free of structures or other buildings. Some open space may be preserved in perpetuity by a land owner to remain open space. Other open space is open

but may not be preserved in perpetuity.

“Parcel” - *See* Building Site.

“Planning Director” means the Town Manager, or his designee. (Ord. 618, §1, 2012)

“Planning and Zoning Commission” means the Kremmling Town Planning Commission pursuant to Chapter 2.36, Kremmling Municipal Code.

“Property” When property is capitalized it means the real property being subdivided and all contiguous land owned or under option by the same owner or entity.

“Proposed Subdivision” means the area of land proposed for subdivision.

“Public Notice” Unless otherwise provided by these subdivision regulations, public notice for a public hearing shall mean all of the following:

1. Notice by the Town: The Town shall publish notice of the date, time, place, reviewing entity and purpose of the hearing, the location of the development, using a commonly known description, and the type of approval requested, in the Town’s newspaper of record. Notices shall be published at least two (2) times prior to the date of the public hearing.
2. Notice by the subdivider: The subdivider shall post the proposed subdivision at least thirty (30) days prior to the public hearing. The signs posting the lands to be subdivided shall be located on all sides of the proposed subdivision and shall be spaced no more than two hundred sixty-six (266) feet apart on public streets and roads along the perimeter of the proposed subdivision. The public notice shall describe the date, time, place, reviewing entity and purpose of the hearing, the location of the development, using a commonly known description, and the type of approval requested. The signs shall be provided by the Town.
 - a. The subdivider shall send notification to tenants of the lands to be subdivided and land owners within three hundred (300) feet of the proposed subdivision, by first class mail, at least fifteen (15) days prior to the public hearing to discuss the proposed subdivision. The notice shall state the date, time, place and purpose of the public hearing the location of the development, using a commonly known description, the type of approval requested and that any questions or comments may be directed to the Planning Department, or the Planning and Zoning Commission when it meets to discuss the proposed subdivision.
 - b. An affidavit stating that the subdivider has posted the lands to be subdivided and has notified the proposed subdivision tenants and abutting land owners, in accordance with this section, shall be submitted to the Planning Director prior to the public hearing. Such affidavit shall be made a part of the record related to the approval or denial of the subdivision plat.

“Public Right-of-Way” means public property upon which the following may exist:

1. Streets and alleys,

2. Sidewalks, bridges, pedestrian and other trails, and other related public improvements, or
3. Other unimproved lands reserved for the uses listed above.

“Raw Land” means land that has not previously been subdivided and recorded.

“Record or Recorded” means submission and acceptance of documentation as a public record by the Clerk and Recorder of Grand County, Colorado.

“Residential Streets” Residential Streets is a book published by the American Society of Civil Engineers, the National Association of Home Builders and the Urban Land Institute in 1990 that describes the general principles and design considerations for residential streets. The Town of Kremmling hereby adopts the recommendations of Residential Streets as the street layout standards for the Town.

“Residential Unit” means one or more rooms, in addition to separate kitchen and bath facilities, intended or designed for occupancy by a family, independent of other families, on a long term basis. (See Titles 14 and 15-2)

“Resource Areas” means lands that generally have the following characteristics. They are areas determined by the Town to be valuable to the residents of the community because they preserve important resources in the vicinity of Kremmling. They include wildlife areas, wetlands, and visual resources. The location of resource areas may be clarified during the subdivision review process.

“Re-subdivision” means the proposed subdivision of land depicted within an existing subdivision plat or the original Town plat.

“Ridgeline” means a ridgeline is the crest or brow of a hillside located at the top of a hillside. When traveling up a hillside, the ridgeline is the point where one reaches the top of the hillside and where, if movement is continued in the same direction, one begins to descend down the other side.

“Significant” means important and of consequence. The Planning Commission is the body that determines the issue of significance.

“Single Family Residential” means any single residential structure containing one (1), and not more, dwelling units.

“Special Flood Hazard Area” means an area within the 100 year floodplain.

“Stratigraphy” as used in these subdivision regulations refers to profiles of soil. Stratigraphy is a geological term. In these subdivision regulations it refers to how the soils are changing across the site. This information is necessary because soils can vary significantly in short distances which will affect designs for roads, utilities and buildings.

“Street” For purposes of these subdivision regulations, a street shall include avenues, which run in an east-west direction, and streets are local streets unless otherwise stated.

“Street, Arterial” means an interregional road conveying traffic between neighborhoods or zone

districts. Efficient movement of higher volumes of traffic is the primary function of arterial streets. Private access and frontage onto arterial streets should be limited or avoided.

“Street, Collector” means the principal collecting street within residential or commercial areas, the collector street carries relatively high traffic volumes and conveys traffic from arterial streets to lower volume streets. Its function is to promote the free flow of traffic. The collector’s secondary function is to serve abutting land uses.

“Structures”

“Subdivider” means the subdivider is the applicant for subdivision approval or his/her/its successor. The subdivider shall be the owner(s) of the property or the authorized representative of the owner(s).

“Subdivision” means any area of land within the Town, or proposed for annexation into the Town, which is divided into two (2) or more lots, tracts, parcels, or separate interests and any lots, tracts, or parcels, or separate interests, of land which are combined with other lots, tracts, or parcels by vacating the existing lot, tract, or parcel lines or changing the legal description of the existing lot(s), tract(s) or parcel(s), unless such lot(s), tract(s), parcel(s), or separate interests are created:

- a. By order of any court in this State or by operation of law; or
- b. By the acquisition of an interest in land, without changing the legal description of the existing lot, tract, or parcel as a joint tenant or tenant in common.

“Subdivision” includes the division of residential or nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. Subdivision includes re-subdivision which is the division or consolidation of existing recorded lot(s) or tract(s), or parcel(s) of land into two (2) or more parcels or other divisions of land for the purpose, whether immediate or future, of sale or for development.

“Subdivision Improvements” means all improvements within a subdivision required by the Town or proposed by the subdivider or owner.

“Substantial” material, considerable in importance, value, degree, amount, or extent. The Planning Commission is the body that determines the issue of substantiality.

“Town” means the Town of Kremmling, Colorado.

“Town Code” means the 1987 Kremmling Municipal Code, as amended.

“Town Board of Trustees” means the Town Board of Trustees of the Town of Kremmling.

“Town Plat” means the official Town plat of the Town of Kremmling.

“Tract” *See Building Sites.*

“Turn Around” means a turn-around is a wide area usually found in a dead end road used to allow emergency and other vehicles to turn around. Turn-arounds are usually as wide as cul-de-sacs.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include wet meadows, fens, riparian areas, and other similar areas. High quality wetlands include wetlands that were naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands. For purposes of this definition, the procedures used to identify a wetland are as described in the 1987 Army Corps of Engineers Wetland Delineation Manual, as amended.

“Zoning Map” means the Official Zoning District Map for the Town of Kremmling, Colorado.

(Ord. 435 §1, 2008)

16.03 - Administrative Provisions and Fees

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16.03.010 Owner or agent may subdivide.

No person other than the owner of land may subdivide land or make application to subdivide land without first having obtained a properly acknowledged power of attorney, granting the power and authority to subdivide such land on behalf of the owner or owners thereof. If the subdivider is not the sole owner of the property, a properly notarized letter shall be submitted, signed by the other owners or an association representing the owners, consenting to or joining in the subdivision application. The letter shall state the representative's name, address and telephone number. If a professional planner or other agent represents the owner(s) at meetings with the Town, or draws the plans, all applications will be signed by the owner(s). (Ord. 435 §1, 1998)

16.03.020 Prerequisites of subdivision review and approval.

1. Prior to review of any subdivision, the property must:
 - a. Be within the Town limits, or
 - b. Be the subject of an annexation application.
2. No property shall be subdivided unless it is first zoned.

(Ord. 435 §1, 1998)

16.03.030 Fees.

- A. The Board of Trustees shall set fees per resolution. No application shall be deemed complete without payment of such fees in full at the time of application.
- B. In addition to the fees established by Board resolution pursuant to subsection A, above, applicants shall reimburse the Town for its actual costs incurred for any services the Town, in its sole discretion, deems necessary for proper review and consideration of the application. By way of example and not in limitation, the Town may retain the services of architects, attorneys, engineers, surveyors, geologists, hydrologists, landscape architects and other professionals. Approval of any application shall be conditioned upon reimbursement of such costs upon presentment to the applicant by the Town.

(Ord. 613 §2, 2011; Ord. 519 §1, 2007; Ord. 435 §1, 1998)

16.03.030A Adequacy of applications.

1. All materials and information, as required by applicable sections of these regulations, including applications, fees, sketches, maps, plans, plats and reports, must be submitted to the Planning Director, complete in every detail.

2. Any item or application which is not complete or which is not otherwise in compliance with these regulations shall not be placed on a meeting agenda of the Planning Commission, or the Town Board of Trustees. The Planning Director shall determine the compliance of each application and shall be the authority for placing any application or item on an agenda.

(Ord. 435 §1, 1998)

16.03.040 Penalty for knowing misrepresentation.

A subdivider's knowing presentation, submission, or representation to the Town of incorrect or false information or data associated with any subdivision application shall be a violation of the Kremmling Municipal Code and shall be punishable as provided in Kremmling Municipal Code section 1.16.010. (Ord. 535 §53, 2008)

16.03.050 Changes and erasures on final plat.

No changes, erasures, modifications, or revisions shall be made on the final plat after approval by the Planning Commission, as appropriate, without specific approval, in writing, by the Planning Commission, as appropriate. Any such revisions shall be indicated on the final plat. (Ord. 435 §1, 1998)

16.04 - Minor and Major Subdivisions

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16.04.010 Minor and Major subdivision.

There are two types of subdivision review processes in Kremmling. They differ in terms of scale, the number of steps involved in the review process and the materials which must be submitted for review. All subdivision activities, including condominiumization, and the creation of townhouses, fall within one of these subdivision types. The Minor Subdivision review process shall not be used to circumvent the requirements of the Major Subdivision review process. The two types of subdivisions are characterized as follows in section 16.04.020. (Ord. 435 §1, 1998)

16.04.020 Minor and Major subdivisions characterized.

1. Minor subdivision: A minor subdivision is any one or more of the following activities:

- a. A minor relocation or adjustment of an easement on a final plat or a building site or parcel line;
- b. A correction of an engineering or survey error or other minor change to a recorded plat which has no effect on the representations made and conditions applied to the approval of the recorded plat;
- c. A vacation of a building site, lot, parcel or tract line;
- d. A re-subdivision creating eight (8) or fewer residential lots or four (4) or fewer lots in non-residential zones, if: (Ord. 539 §1, 2008; 435 §1, 1998)
 - i. No new public dedications are necessary for public or private services as determined by the Town;
 - ii. The property is zoned;
 - iii. Each building site is adjacent to a street, thereby having access to such street; and if
 - iv. Each resulting parcel conforms with the dimensional requirements of the existing zone district.

2. Major subdivision: A major subdivision is a subdivision or re-subdivision which meets one or more of the following criteria:

- a. Creates more than eight (8) lots; (Ord. 539 §3, 2008; 435 §1, 1998)
- b. A re-subdivision in any zoning districts other than residential that: (Ord. 539 §6, 2008; Ord. 435 §1, 1998)
- c. Does not conform to all dimensional requirements in the applicable zone district,
- d. Creates more than the existing number of nonconforming parcels, or

- e. Creates more than four lots; (Ord. 539 §7, 2008; Ord. 435 §1, 1998)
- f. A conversion of an existing structure to condominiums or townhouses, unless the Planning Director, or at his/her discretion, the Planning Commission, reasonably finds that the nature, size, or effect of the proposed conversion will not likely create impacts of a significant nature, such as to nearby landowners within the Town, in which case such conversion shall be subject to the requirements of the minor subdivision regulations. (Ord. 539 §8, 2008; Ord. 435 §1, 1998)
- g. A subdivision which is not otherwise a minor subdivision. (Ord. 539 §9, 2008; Ord. 435 §1, 1998)

Any application for a PUD which contains more than 25,000 square feet of land shall be required to comply with the procedures and requirements of a major subdivision, whether or not subdivision is actually proposed.

(Ord. 435 §1, 1998)

16.05 - Minor Subdivisions

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16.05.010 Application for Planning Director review.

All minor subdivision applications must be reviewed for approval by the Planning Director or the Planning Commission as set forth in section 16.05.020 and 16.05.030. All applications for approval of a minor subdivision shall be processed by making an application to the Planning Director. The application shall include the following minimum information.

1. The required application fee.
2. Proof of ownership of the subject property acceptable to the Town.
3. Location Improvement Certificate certified by a Colorado licensed surveyor.
4. Floor plan of any existing structures sufficient to allow the Planning Director to calculate the Floor Area Ratio (FAR).
5. A map of the proposed subdivision parcels sufficient to determine the size and area of each proposed parcel and describing each such parcel, as a portion of a lot, or tract, or parcel, or lots, or tracts, or parcels on the Town plat. The map shall also identify the location of all public rights-of-way, the location and size of the vehicular access to each parcel and to each structure, and the location of all utilities and all public facilities.
6. A narrative statement describing the following:
 - a. How fire protection will be provided;
 - b. Whether there is any potential for damage to public or private property by fire or flood erosion and what mitigation measures will be undertaken to minimize such damage;
 - c. How emergency access will be provided;
 - d. How flood protection will be provided; and
 - e. A description of the proposed access to each proposed parcel.
7. A copy of the restrictive covenants that have been recorded and affecting the lots, tracts, or parcels that are the subject of the re-subdivision.
8. A copy of the proposed final plat containing the required information in section 16.05.030.1.
9. Any other information or documents requested by the Town that is necessary to render a decision under the criteria of section 16.05.020 or 16.05.050 as applicable.

(Ord. 435 §1, 1998)

16.05.020 Procedure for Planning Director approval.

A. The Planning Director may approve the re-subdivision if he/she determines from the above information that: (Ord. 539 §10, 2008)

1. All such proposed parcels are divided by, or parallel to and the same length as, the original lot, tract or parcel lines on the Town plat;
2. All of the developed proposed parcels have the maximum yard setbacks which can be required for the existing structures;
3. All structures on proposed parcels do not exceed the FAR allowed “as a matter of right” in the subject zone district;
4. All of the proposed areas parcels conform with the dimensional characteristics of lots or tracts in the applicable zone district of Title 17 of the Town code;
5. The minor subdivision creates no more than eight (8) lots. (Ord. 539 §11, 2008)
6. None of the proposed parcels violate section 16.05.050 or Title17 of the Town code.

The Planning Director’s decision shall be in writing, shall list the reasons for the decision and shall be sent to the subdivider not more than thirty (30) days after receipt of a complete and conforming application. (Ord. 539 §12, 2008)

(Ord. 435 §1, 1998)

B. If decision is to approve and the subdivision is eligible for Planning Director approval, the additional information and documentation required by section 16.05.030 shall be submitted. When complete, the final plat shall be recorded in the real property records of Grand County. (Ord. 539 §12, 2008)

C. If the Planning Director determines that the application meets the requirements of this title, and that it is not eligible for final approval by the Planning Director, the application shall be referred to the Planning Commission for further proceedings. (Ord. 539 § 13, 2008)

D. If the Planning Director determines that the application does not meet the requirements of this title, or if the information is deemed by the Planning Director to be insufficient to make the required determinations, the Planning Director shall so advise the applicant and return the application to the applicant. (Ord. 539 §14, 2008)

16.05.030 Application information and documentation requirements. (Ord. 539 §15, 2008)

Upon final approval of a minor subdivision, the applicant shall provide to the Town the following additional information and documentation: (Ord. 539 §16, 2008)

1. A final plat of the re-subdivision proposal. The final plat shall be prepared by a Colorado licensed surveyor on 24” x 36” sheet size Mylar and shall contain the following:

- a. Scale no less than 1" to 30';
- b. A legal description of the existing lot(s) and proposed parcels within the re-subdivision, identifying the proposed lots as parts of lots on the Town plat; (Ord. 539 §17, 2008)
- c. All Town boundary (if applicable), lot, tract and parcel lines, easements, and rights-of-way;
- d. All such lines shall have exact lengths and land bearings, which shall close within the limits of 1 in 10,000;
- e. The location of any existing and proposed public rights-of-way, having their width, curves, radii, and other dimensions, clearly shown;
- f. The existing and proposed names of streets within the re-subdivision;
- g. The location of any existing and proposed snow storage areas;
- h. The proposed use(s) of the land within the subdivision; (Ord. 539 §18, 2008)
- i. The name of the subdivision, or the original Town plat, within which the property lies; and
- j. The statements and wording required by 16.10.030, except that the Planning Commission Certificate set forth in 16.10.030.6 is not to appear on subdivision exemption plats. (Ord. 539 §19, 2008)

(Ord. 435 §1, 1998)

16.05.040 Procedure for Planning Commission review.

1. Referral to the Planning Commission: Upon a determination by the Planning Director that an application is complete, the Planning Director will refer the proposal to the Planning Commission for determination and cause the required notice to be published.
2. Public hearing: The Planning Commission shall hold a public hearing on the proposed re-subdivision to receive written or oral comment. Notice of the time, place, and purpose of the public hearing shall be published in the official Town newspaper at least ten (10) days prior to the date set for the public hearing. The notice shall describe the re-subdivision location by lots or tracts and blocks, and street address, if possible. The Planning Director shall cause notices of the proposed re-subdivision to be posted on the subject property for the same ten (10) day period.
3. Approval by the Planning Commission: No minor subdivision shall be approved unless the Planning Commission finds that it complies with all of the criteria in section 16.05.050. If the re-subdivision does not comply with all of the above referenced criteria, it shall either be approved with conditions which assure compliance with all such criteria, continued to a date certain, or it shall be denied.
4. Filing the final plat: All finally approved re-subdivision plats must be certified by the Planning Commission as being in compliance with the requirements hereof and must be recorded in the real property records of Grand County.

(Ord. 435 §1, 1998)

16.05.050 Criteria for review and approval of a minor subdivision.

No minor subdivision shall be approved unless the Planning Commission finds it complies with all the following criteria. The re-subdivision must:

1. Comply with all applicable zoning requirements of the zone district in which the re-subdivision is located;
2. Have a front parcel line on a street only, and such parcel access shall have the following characteristics:
 - a. Said front parcel line must be at least twenty-five (25) feet long or the minimum lot width for the applicable zone district, whichever is shorter;
 - b. The vehicular access and parking to any primary structure on a parcel shall be from a street, and no extraordinary measures shall be utilized to provide said access;
 - c. Any such access must be from a street, must be a minimum of twenty-five (25) feet wide along its entire length, and must be owned in fee simple by the owner of the parcel being accessed;
 - d. Blank;
 - e. Blank;
 - f. Vehicular access to a primary structure from an alley, including the access required pursuant to this subsection, may be approved by the Planning Commission only if either one of the following conditions exist:
 - i. The primary vehicular access existed from an alley prior to the adoption date of these regulations.
3. Provide for underground utilities to each building site;
4. Provide for adequate fire and flood protection, and emergency access;
5. Not increase the potential for breach of the public safety, or damage to public or private property by fire, flood, or erosion;
6. Not create congestion, automotive or pedestrian safety problems or other traffic hazards;
7. Not use easements across another lot, tract or parcel for private primary vehicular access;
8. Be designed in a manner that directs the placement of roads, utilities and structures away from any unstable soils, or mitigates the effect of unstable soils, geologic hazards, and other site conditions so as to minimize the potential for breach of the public safety, or damage to public or private property;
9. Not create significant adverse effects to public facilities, rights-of-way or utilities;

10. Not create significant adverse impacts on the use of adjacent property;
11. Blank;
12. Otherwise be consistent and comply with the objectives, purposes, conditions and requirements of these subdivision regulations and Title 17 of the Town Code; and
13. Execute a subdivision improvements agreement memorializing the subdivider's/owner's obligation and agreement to construct, at the subdivider's/owner's cost and expense, all public and private utility and street improvements in accordance with the Town's utility and street standards. The subdivision improvement agreement shall be in substantial conformance with the generic agreement attached in section 16.10.040 and shall be approved as to form by the Town Attorney.

(Ord. 435 §1, 1998)

16.06 - Major Subdivisions

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16.06.010 Pre-application conference procedure.

1. Pre-application conference: A conference between the subdivider and the Planning Director and appropriate department heads shall take place prior to the submission of any application for subdivision review. The purpose of the conference is to acquaint the Town with the subdivider's intentions concerning the proposed subdivision, to acquaint the subdivider with the substantive and procedural requirements of these subdivision regulations and to identify policies which create opportunities or pose constraints for the proposed subdivision.
2. Pre-application submittals: The subdivider shall provide a scale drawing of the property indicating the following for review at the pre-application conference:
 - a. Proposed lot, tract or parcel and block configurations;
 - b. The proposed density, number of units and population;
 - c. On and off site traffic circulation;
 - d. Proposed land uses;
 - e. The one hundred (100) year flood plain, if applicable;
 - f. Any wetlands on the property;
 - g. Known, potential or suspected hazardous conditions;
 - h. Other information pertinent to the issues under consideration.
3. Second pre-application conference: Following the initial pre-application conference, and at the discretion of the Planning Director, a second pre-application conference may be held where referral agencies as described in section 16.06.040 are asked by the Planning Director to attend to discuss issues that may be substantial during review of the subdivision proposal.
4. Comments are preliminary: Any comments made by any member of the staff during the pre-application conference(s) are only preliminary in nature. Formal comments will not be made by the Town until after the sketch plan application is submitted and abutting property owners and referral agencies have had an opportunity to formally respond.

(Ord. 435 §1, 1998)

16.06.020 Sketch plan procedure.

A subdivider seeking approval of a sketch plan shall follow the steps outlined below.

1. Submit sketch plan: The subdivider shall submit a complete sketch plan application to the Planning Director containing those materials listed in section 16.06.030.
2. Staff review and referral: The Planning Director shall review the application to determine whether it is complete and complies with the requirements of the existing or proposed underlying zone district(s), these subdivision regulations, and the Town's Comprehensive Plan.
 - a. If the Planning Director finds the application is complete and so complies, the application shall be assigned an agenda date for the Planning Commission and referred to other appropriate departments for their comment.
 - b. If the application is incomplete or does not comply, it shall be returned to the subdivider, shall not be assigned an agenda date, and no further action taken until its defects are remedied. The Planning Director shall provide written comments to the subdivider detailing the reasons why the application is incomplete.
3. Public notice: Unless otherwise provided by this section, public notice shall be provided prior to all public hearings required by this section as defined in the definitions section 16.02.
4. Staff report: Prior to the public hearing to consider the application, the Planning Director shall prepare and forward a report to the Planning Commission summarizing whether the plan is in general conformance with these subdivision regulation, the existing or proposed underlying zone district(s), and the Town's Comprehensive Plan.
5. Public action by Planning Commission:
 - a. The sketch plan public hearing will be reasonably scheduled with the Planning Commission so as to allow adequate time for the staff to prepare and distribute the staff report as determined by the Planning Director.
 - b. Information concerning any aspect of the proposed subdivision may be discussed at the sketch plan review.
 - c. Prior to any comments by the Planning Commission, or as a result of discussions with the subdivider, the Planning Commission may, at its discretion, request that the sketch plan be reviewed by various Town, district, county, state, or federal agencies for specific recommendations.
 - d. The Planning Commission shall conduct a public hearing to review the conformance of the sketch plan with all applicable general and specific design and improvement standards set forth in section 16.07 of these subdivision regulations, the existing or proposed underlying zone district(s), and the Town's Comprehensive Plan. The Planning Commission is authorized to take action on the sketch plan and may either approve,

approve with conditions, or deny the sketch plan, based on specific findings of fact concerning substantial compliance of the proposed subdivision with this subdivision regulation. The Planning Commission is also authorized, at its discretion or upon request by the subdivider, to table the proposed sketch plan to a date certain, so that the subdivider may make modifications or provide additional information before the Planning Commission takes action. If modifications or additional information are to be submitted for approval, the Town shall have at least twenty-one (21) days to complete the review of this material before assigning an agenda date for further consideration by the Planning Commission.

6. The effect of sketch plan approval: Approval of the sketch plan, with or without conditions, shall constitute authorization for the subdivider to prepare and submit a preliminary plan in accordance with any conditions included in the sketch plan approval. Sketch plan approval shall be effective for a maximum of twelve (12) months unless, upon application for good cause, the Planning Commission grants an extension of time. Submittal of a complete preliminary plan application, even if for less than the entire area covered by the sketch plan, shall extend the duration of the sketch plan approval to a date six (6) months following the date of submittal of the preliminary plan. Approval of the sketch plan shall not be deemed to provide the subdivider with the right to begin conveying real property interests or to begin any subdivision improvements.

(Ord. 435 §1, 1998)

16.06.030 Sketch plan submittals.

1. Application and fee: An application, in a form provided by the Planning Director, and the Major Subdivision application fee. (Ord. 613 §4, 2011)
2. Legal description: The legal description of the property and the legal description of the proposed subdivision.
3. Site plan: The sketch plan site plan shall consist of the following:
 - a. The name of the proposed subdivision (the subdivision name shall be followed by the term “sketch plan”);
 - i. The name shall consist of alphabetic characters only,
 - ii. If the land to be subdivided is part of an existing subdivision, the name shall include the name of the existing subdivision,
 - iii. The name of the proposed subdivision shall not be the same or similar to any name used in a recorded plat in Grand County, unless the subdivision is part of an existing subdivision;
 - b. Date of preparation, written and graphic scale, and north arrow, designated as true north (each revised drawing shall have a new date);
 - c. Contour lines related to an established benchmark or other datum approved by the Town’s Engineer and having contour intervals as follows:
 - i. For slopes less than ten (10) percent - one foot contours,

- ii. For slopes ten (10) percent or greater - five foot contours;
- d. Schematic representation of the proposed subdivision including:
 - i. General location and type of all units,
 - ii. Existing or proposed zoning,
 - iii. Location, shape and size of all lots, tracts, or parcels, recreation areas, open lands, off street parking, and snow storage areas, and
 - iv. Proposed landscaping and lighting;
- e. The proposed internal vehicular and pedestrian access scheme and the surrounding public road and pedestrian systems which provide access to the property;
- f. All recorded easements and rights-of-way which are within the proposed subdivision, within one hundred (100) feet of the proposed subdivision or which could affect the proposed subdivision;
- g. All existing structures, utilities and other physical features which could affect the proposed subdivision; and
- h. Significant natural, human made, and topographic features including but not limited to:
 - i. Rock outcroppings or other prominent geologic features,
 - ii. Drainage ways and ditches,
 - iii. Agricultural ditches,
 - iv. Bodies of water,
 - v. The location and direction of all water courses and the location of all areas subject to the one hundred (100) year flood plain within the property or within one hundred (100) feet of the property, and the estimated flow rate used in determining the one hundred (100) year flood plain location, based on an independent engineer's calculations,
 - vi. Natural hazards,
 - vii. Hazardous or toxic deposits,
 - viii. Wildlife habitat areas,
 - ix. The location, size, and type of existing vegetation, including the location of willows and shrubs at least two (2) feet in diameter and trees with a trunk diameter of six (6) inches or more as measured four and one-half (4 1/2) feet above the ground, and an indication of which trees are proposed to be removed (where large groves are to remain undisturbed,

single willow, shrubs or trees need not be located); and the proposed limits of any excavation or regarding in the proposed subdivision, and

- x. Wetlands within the proposed subdivision and wetlands within at least one hundred (100) feet of the proposed subdivision. The function and value of any wetlands in the proposed subdivision and a one hundred (100) foot buffer between any high quality wetlands and the development shall be identified. For this submittal, high quality wetlands include wetlands that were naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands. If wetlands are located in areas that have been grazed or irrigated for more than one (1) year, within the past five (5) years, the following methodology shall be used to determine the true location of wetlands:
 1. All areas where the water table is within sixteen (16) inches of the ground surface shall be determined by a hydrologist, or other person familiar with hydrologic investigations, who has installed ground water monitoring wells sufficient to understand the water levels and direction of flow of ground water,
 2. The wells shall be monitored at least once per week after the snow melts and throughout May, June, July and August; during the period of monitoring, there shall be no irrigation of the proposed subdivision,
 3. This information shall be used together with the U.S. Army Corps of Engineers Wetland Delineation Manual, 1987, (or more recent version) to determine areas that have wetlands hydrology.
4. Sketch plan facility plan: The sketch plan facility plan shall show the general location of the following:
 - a. Water supply lines and treatment facilities;
 - b. Sewage disposal lines and treatment facilities;
 - c. Irrigation ditch system;
 - d. Utilities:
 - i. Electrical,
 - ii. CATV,
 - iii. Telephone,
 - iv. Fiber optic,
 - v. Gas,
 - e. Drainage;
 - f. Fire protection facilities;
 - g. School facilities;
 - h. Other public facilities; and

- i. The subdivider shall estimate the number of gallons per day required of the water system (*See* section 16.07.120.)
5. Soils Report: Evidence establishing soil suitability, in the form of a report prepared by a registered professional engineer specializing in geotechnical engineering, in accordance with the “Soil Survey of Grand Area, Colorado” by the United States Department of Agriculture, Soil Conservation Service, “Soil Survey,” which shall minimally include a description of the subdivision site soil:
 - a. Types;
 - b. Locations; and
 - c. Characteristics with supporting
 - d. Soil maps;
 - e. Soil logs;
 - f. Data from the “Soil Survey” and other information needed to determine:
 - g. Soils suitability for proposed development;
 - h. Constraints on development based on the findings;
 - i. Analysis and evaluation of such descriptive information; and
 - j. The structural characteristics of the soil as they relate to the proposed uses and development. Test borings should be sufficient in number to identify the different soil types within the proposed subdivision. The soils information should establish in reasonable detail the stratigraphy, together with a basic knowledge of the engineering properties of the overburden and bedrock formations which will be affected by or will have an effect upon the new structures, roads, utilities and other facilities in the proposed subdivision. A non-technical discussion shall be provided to describe what to do about the identified soils that may pose problems during construction of the subdivision infrastructure or private structures.
6. Vicinity map: A vicinity map indicating the location of:
 - a. The property and the proposed subdivision within it;
 - b. Commonly known landmarks;
 - c. Roads;
 - d. Abutting land uses; and
 - e. Existing zone districts in which the proposed subdivision and adjacent properties are located.

7. Narrative: A narrative description which provides:
 - a. A conceptual description of the proposed land uses and densities for the property;
 - b. A conceptual description of the proposed number of residential and commercial units on each proposed tract or parcel;
 - c. A conceptual description of the proposed zoning, landscaping, and road and utility plans for the proposed subdivision;
 - d. A written report setting forth the findings of the flood plain study and the wetlands study, if either is applicable;
 - e. The name and address of the owner of any mineral estates, including mineral leases, if any, underlying the proposed subdivision; and
 - f. The names and addresses of all property owners within three hundred (300) feet of the proposed subdivision.
8. Number of copies: Four (4) copies of the above maps, plans and narrative information shall be submitted to the Town. Additional copies shall be provided by the subdivider, as determined by the Planning Director. The subdivider shall provide at least seven (7) copies for the Planning Commission and the public at all public meetings. All copies are to be provided by the subdivider.

(Ord. 435 §1998)

16.06.040 Preliminary plan procedure.

1. Pre-submittal meeting: The subdivider may request a pre-submittal conference with the Planning Director, prior to submission of a preliminary subdivision plan. The purpose of the meeting is to acquaint the subdivider with the substantive and procedural requirements of these subdivision regulations for the preliminary plan procedure and to make recommendations to the subdivider concerning issues deemed important by the Planning Director at this stage including identification of significant views and natural vistas.
2. Submit preliminary plan: The subdivider shall submit a complete preliminary plan application to the Planning Department containing those materials listed in section 16.06.050.
3. Staff review and referral:
 - a. If the Planning Director finds that the application is complete, the application shall be assigned a Planning Commission agenda date and shall be referred to the following departments and agencies for their review, comments, and recommendations unless the Planning Director finds that the proposed subdivision is not related to the issues addressed by a particular referral agency listed (the subdivider will be required to provide one copy of the preliminary plan application for each referral):
 - i. Public Works Department,

- ii. Utilities Department,
 - iii. Sanitation District,
 - iv. Blank,
 - v. Colorado Division of Wildlife,
 - vi. Grand Trails Commission,
 - vii. School District,
 - viii. Kremmling Fire Protection District,
 - ix. Grand County Planning Commission,
 - x. Blank,
 - xi. U.S. Army Corps of Engineers, if wetlands and/or floodplains are involved.
- b. The Planning Director may, as appropriate, also distribute copies of the submittals to the following agencies that may be concerned with a matter or area of local interest which could be affected by the subdivision, for comment:
- i. Colorado Department of Transportation, when the proposed subdivision is adjacent to or in sufficient proximity to affect or may require a State right-of-way, accel/decel lane or other state approval or highway facility;
 - ii. United States Forest Service,
 - iii. Colorado State Forest Service,
 - iv. Bureau of Land Management,
 - v. Soil Conservation District,
 - vi. Colorado Water Conservation Planning Commission for designation and approval of any one hundred (100) year flood plain, or
 - vii. the appropriate housing authority.
- c. The Planning Director shall instruct each of the departments and agencies, to which the preliminary plans are distributed, that all of their comments and recommendations must be submitted to the Planning Department within thirty (30) days after receipt of such referral materials, or the plan will be deemed to have been approved by the referral department or agency as proposed by the subdivider.
4. Meeting with review departments and/or agencies: If the Planning Director determines that the impacts of a proposed subdivision are of such magnitude as to require a meeting of the subdivider

with any of the referral departments or agencies, the Planning Director shall call a meeting to discuss the proposed subdivision with the affected parties.

5. Incomplete application: If the application is incomplete, and therefore does not comply with the requirements of these subdivision regulations, it shall be returned to the subdivider, shall not be assigned an agenda date, and no further action taken until its defects are remedied.
6. Engineering review: If the Planning Director refers the submittals to the Public Works Department, and/or the Utilities Department, the Departments shall provide a written report to the Planning Commission assessing substantial compliance of the preliminary plan with the appropriate street and utility standards, making recommendations for compliance and reporting on any other areas of engineering concern. The Public Works and Utilities Departments, and the Planning Director, at their discretion and as deemed necessary, may solicit additional engineering services to be performed by the Town's Engineer.
 - a. At the time the preliminary plan is submitted to the Town for review, the Public Works and Utilities Departments, and/or the Planning Director will estimate the costs of additional engineering review. The subdivider shall pay these costs in accordance with section 16.03.020. No preliminary plan shall be placed on an agenda for consideration by the Planning Commission until such estimated costs are paid.
 - b. If the actual costs of engineering review are less than the estimated costs, any excess funds paid to the Town account shall be returned to the subdivider. If the actual costs exceed the estimated costs, the subdivider shall pay the additional costs within thirty (30) days of submission of a bill for costs by the Town.
7. Staff Report: Prior to the public hearing to consider the preliminary plan application, the Planning Director shall prepare and forward a written report to the Planning Commission summarizing any review agency comments received and evaluating the proposed preliminary plan's compliance with the standards contained in these subdivision regulations, the existing or proposed underlying zone district(s), and the policies of the Town's Comprehensive Plan.
8. Public Notice: Unless otherwise provided by this section, public notice shall be provided prior to all public hearings required by this section as defined in the definitions section 16.02.
9. Review Period: The Planning Commission hearing will be scheduled by the Planning Director no sooner than forty-five (45) days after preliminary plan submittal by the subdivider to allow for department and agency review and comment, for planning staff review of those comments and the preliminary plan, and for adequate preparation of staff reports for the Planning Commission and review of such reports by the Planning Commission.
10. Planning Commission Review and Public Action:
 - a. The Planning Commission shall evaluate all of the following in its deliberations:
 - i. Conformance of the preliminary plan with all applicable provisions of these subdivision regulations, the existing or proposed underlying zone district, and the Town's Comprehensive Plan,
 - ii. Whether the proposed plan represents good planning practices, and

- iii. Whether the proposed plan adequately safeguards against known and suspected hazards and adequately protects known resources. In its deliberations the Planning Commission shall review reports on file, and others available, pertaining to geologic, toxic waste, wildfire, and flood hazards, mineral resource areas, significant wildlife areas, wetlands, and visual resources, and shall consider the guidelines and recommendations as prepared by the appropriate referral agency to mitigate hazards and to protect resources (if the Planning Commission finds the reports on file to be inadequate, or none exist, it may have such reports prepared addressing specific issues and the subdivider shall pay the costs for such reports).
- b. Blank.
- c. The Planning Commission shall conduct a public hearing to review the conformance of the preliminary plan with the requirements of these subdivision regulations.
 - i. The Planning Commission is authorized to take action on the preliminary plan and may either approve, approve with conditions, or deny the preliminary plan, based on specific findings of fact concerning substantial compliance of the proposed subdivision with the provisions of these subdivision regulations including the following major topics:
 - 1) Conformance with the Town's Comprehensive Plan;
 - 2) Payment of fees due at this time;
 - 3) The standards in these subdivision regulations, section 16.07;
 - 4) The applicable provisions of the existing or proposed underlying zone district;
 - 5) The subdivision improvements agreement;
 - 6) The publication requirements; and
 - 7) All other requirements of these subdivision regulations.
 - ii. The Planning Commission is also authorized, at its discretion or upon request by the subdivider, to continue the public hearing to a information before the Planning Commission takes final action. If new material or revisions are to be submitted for approval, the Town and the referral agencies shall have at least twenty-one (21) days to complete the review of this material, before assigning an agenda date for further consideration by the Planning Commission.

11. Actions following approval:

- a. Effect of preliminary plan approval. Preliminary plan approval shall constitute only authorization to proceed with application for final plan and final plat approval in accordance with the representations made by the subdivider and conditions imposed on the proposed subdivision. Approval of a preliminary plan shall not constitute final approval of the subdivision or permission for development to occur.

- b. Expiration: If an application for final plat approval is not submitted to the Town within one (1) year of the date of approval of the preliminary plan, the preliminary plan approval shall expire.
- c. Extension:
 - i. A subdivider may request one automatic extension of the submission deadline for the final plat of up to ninety (90) days by submitting a written request to the Planning Director prior to the expiration date. The Planning Director shall be authorized to extend the approval for a period of up to ninety (90) days.
 - ii. A subdivider may request an additional extension of the submission deadline for the final plat by submitting a written request to the Planning Director prior to the expiration date, for consideration by the Planning Commission, which request shall demonstrate good cause for granting the extension. The approval shall be deemed extended until the Planning Commission has acted on the request for extension. The Planning Commission shall be authorized to extend the approval for a period of up to one (1) year and to impose additional conditions if necessary.

(Ord. 435 §1, 1998)

16.06.050 Preliminary plan submittals.

A preliminary subdivision plan shall contain, at a minimum, the following:

- 1. Subdivision name: The name of the proposed subdivision (The subdivision name shall be followed by the term “preliminary plan” and shall comply with the requirements of sections 16.06.030.3.a.i., ii., and iii.)
- 2. Ownership and encumbrances: A statement of ownership and encumbrance of the proposed subdivision listing the names of all owners of the property, and all mortgages, judgments, liens, easements, contracts, agreements and other encumbrances affecting the property. The statement of ownership and encumbrance may be in the form of the following:
 - a. A commitment from a title insurance company, that is not older than thirty (30) days;
 - b. Ownership and encumbrance report prepared by a title insurance company; or
 - c. Other documentation acceptable to the Town Attorney.

The statement of ownership and encumbrance, with the required power of attorney, if applicable, shall demonstrate to the satisfaction of the Town Attorney that the subdivider has the right to submit the development application.

- 3. Legal description: The subdivider shall submit the legal description of the proposed subdivision and of the proposed open land which will be permanently preserved in compliance with section 16.07.040. Open land shall be adequate to comply with section 16.07.040 for all units approved in the preliminary plan and a conceptual plan will also be presented for any remaining required open lands for units in the approved sketch plan that are not included in the preliminary plan.

4. Names of preparers: The names, addresses, and telephone numbers of the surveyor, engineer, land planner, and/or designer, and the hydrologist, when applicable (all of whom must be licensed in the state of Colorado when applicable).
5. Vicinity map: A vicinity map at a scale of one (1) inch equals two thousand (2,000) feet, or other appropriate scale, indicating the location of the Town and showing the location of the property and the proposed subdivision within it, commonly known landmarks, streets, paths, and utilities and the zone district of the proposed subdivision and adjacent properties. This map, or accompanying map at an appropriate scale should include a sketch of the general layout of the proposed subdivision.
6. Site analysis information: Site analysis information must include:
 - a. A boundary survey indicating the location and dimensions of: the exterior boundary of the proposed subdivision, all existing public rights-of-way, streets and alleys, all existing easements, all public and private utilities, above and below the surface of the ground, section lines, property corners, Town boundary lines, monuments and other significant manmade, ground level features within or adjacent to the proposed subdivision;
 - b. Existing uses on the property, including the location of all existing structures;
 - c. The location of all existing or historical pedestrian and bicycle paths on site, and any easements relating to these facilities;
 - d. Contour lines related to an established benchmark or other datum approved by the Town's Engineer and having contour intervals as follows:
 - i. For slopes less than ten (10) percent - one foot contours,
 - ii. For slopes ten (10) percent or greater - five foot contours;
 - e. The location and direction of all water courses and the location, within the property and within one hundred (100) feet of the property, of all areas subject to the twenty-five (25) year flood plain and the one hundred (100) year flood plain and the estimated flow rate used in determining the locations, based on an independent engineer's calculations (the location of the one hundred (100) year flood plain shall be certified by an engineer licensed to practice in the state of Colorado);
 - f. Significant natural features including but not limited to:
 - i. Rock outcroppings or other prominent geologic features,
 - ii. Drainage ways,
 - iii. Agricultural or drainage ditches,
 - iv. Bodies of water, and
 - v. Wetlands. If the wetlands study is unchanged since the sketch plan stage, no new study will be needed for the preliminary plan submittals. If it has been revised since

submittal for the sketch plan stage, a revised wetlands study shall be submitted at the preliminary plan stage addressing the following within the proposed subdivision and within at least one hundred (100) feet of the proposed subdivision.

- 1) The function and value of any wetlands in the proposed subdivision and a one hundred (100) foot buffer between any high quality wetlands and the development shall be identified.
- 2) For this submittal, high quality wetlands shall include wetlands that were naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands.
- 3) If wetlands are located in areas that have been grazed or irrigated for more than one (1) year, within the past five (5) years, the following methodology shall be used to determine the true location of wetlands:

*Areas where the water table is within sixteen (16) inches of the ground surface the wetland location shall be determined by a hydrologist, or other person familiar with hydrologic investigations, who has installed ground water monitoring wells sufficient to understand the water levels and direction of flow of ground water,

*The wells shall be monitored at least once per week after the snow melts and throughout May, June, July and August (during the period of monitoring, there shall be no irrigation of the property),

*This information shall be used together with the U.S. Army Corps of Engineers Wetland Delineation Manual, 1987, to determine areas that have wetlands hydrology);

- g. The location, size, and type of existing vegetation, including the location of willows and shrubs at least two (2) feet in diameter and trees with a trunk diameter of six (6) inches or more measured four and one-half (4 1/2) feet above the ground, and an indication of which trees are proposed to be removed (where large groves are to remain undisturbed, single willows, shrubs or trees need not be located); and the proposed limits of any excavation or re-grading in the proposed subdivision;
- h. The designation of all areas that constitute natural hazard areas including but not limited, mudslide, rockslide, and wildfire;
- i. The location of all existing or historical wildlife movement corridors, strutting grounds or other wildlife habitat;
- j. Ghosting in the existing lot or tract lines, streets or other subdivision features which are proposed to be changed or removed;
- k. Ghosting in structures existing or approved by the Town or county located within the proposed subdivision, and within three hundred (300) feet of the proposed subdivision;
- l. The names of adjacent subdivisions and the zoning, if applicable;

- m. A map indicating the ridgelines lying on the proposed subdivision and highlighting the highest forty (40) feet, as measured vertically, below the top of each ridgeline;
- n. A preliminary analysis of the site concerning any existing or potential hazardous conditions including, but not limited to, soils, mine tailings, mine drainages, petroleum residue, etc.
- o. Evidence establishing soil suitability in the form of a report prepared by a registered professional engineer, specializing in geotechnical engineering, in accordance with the “Soil Survey of Grand County, Colorado” by the United States Department of Agriculture, Soil Conservation Service, which shall minimally include a description of site soil:
 - i. Types,
 - ii. Locations, and
 - iii. Characteristics, with supporting
 - iv. Soil maps,
 - v. Soil logs,
 - vi. Data from the “soil survey,” and other information needed to determine:
 - vii. Soils suitability for proposed development,
 - viii. Constraints on development based on the findings, and
 - ix. Analysis and evaluation of such descriptive information, together with sufficient soils engineering data, with recommendations regarding:
 - x. Structural and facility constraints,
 - xi. Foundation design considerations,
 - xii. Erosion control, and
 - xiii. The adequacy of the structural characteristics of the soil as they relate to the proposed uses and development.

The soils information should establish, in reasonable detail, the stratigraphy, together with a basic knowledge of the engineering properties of the overburden and bedrock formations which will be affected by or will have an effect upon the new structures, roads, and utilities.

Because this information will be used to design the roads and utilities, the road soils test holes for investigation shall be a minimum of four (4) feet deep and the spacing shall be no more than four hundred (400) feet or one (1) test hole for each soil type, whichever is

closer. Test holes for utilities shall be sufficiently deep to identify the soil conditions that may influence the performance of the utility. The spacing of test holes for structures such as buildings shall be a minimum of one (1) per two (2) single family residential, mobile home, or commercial tracts or parcels and one (1) per ten thousand (10,000) square feet of multi-family residential development, but no more than one (1) per one hundred (100) feet, provided that additional test holes may be required as determined by the engineer. Test holes for structures shall be sufficiently deep to identify the soil conditions that may influence the performance of foundations.

7. Preliminary site plan scale: A graphic conceptual site plan of the proposed development and surrounding area shall be legibly drawn on a sheet of paper that is 24 x 36 inches in size, using a map scale large enough for effective public presentations, but generally no smaller than one inch equals one hundred feet (1" = 100'). The scale may be increased or decreased if necessary to fit the paper, but in all cases the scale used shall be in multiples of ten (10). Sheets for presentations may be larger for effective public presentations.
8. Preliminary site plan labeling information: The preliminary site plan shall be labeled as follows:
 - a. The proposed name of the subdivision;
 - b. The date of preparation (each revised drawing shall have a new date);
 - c. A true north arrow;
 - d. Written and graphic scale of drawing; and
 - e. The location of the subdivision by section, township and range sufficient to define the location and boundaries of the proposed subdivision.
9. Preliminary site plan map: The preliminary site plan shall include the following information relating to the proposed subdivision:
 - a. Existing and proposed zoning districts;
 - b. A road plan showing the location, width, name and approximate grade and radii of new streets and street curves and the relationship of proposed subdivision streets to any existing streets, or proposed streets as shown in map or written form in the Town Comprehensive Plan, and drawn with the following information:
 - i. Centerline profiles of streets and roads shall be plotted with sufficient accuracy to insure that street designs will conform with the prescribed standards of the Town's Engineer, and
 - ii. All centerline profiles shall be drawn to a scale of ten (10) feet vertical and fifty (50) feet horizontal to the inch, or five (5) feet vertical and fifty (50) feet horizontal to the inch, as required by the Town;
 - c. The location, width and approximate grades of all proposed pedestrian and bicycle paths, and their relationship to any existing paths or proposed trails as shown in map or written

- form in the Town Comprehensive Plan or the planning documents of the Grand County Trails Commission;
- d. The location, width and purpose of any proposed easements;
 - e. The location, approximate dimensions and acreage of each:
 - i. Single family residential tract or parcel,
 - ii. Multifamily residential tract or parcel,
 - iii. Business or commercial tract or parcel,
 - iv. Mobile home tract or parcel,
 - v. Separate area of land to be reserved or dedicated for public use as a park, drainage detention ponds, etc., together with the purpose and conditions of such reservations or dedications,
 - vi. Separate area of land to be preserved as open lands;
 - f. The location of all off-street parking areas and off-street snow storage areas;
 - g. An outline of the areas proposed for phased development, if applicable;
 - h. A utility plan, prepared by a registered professional engineer, licensed in the state of Colorado, which shall include the following at a minimum:
 - i. The location of all existing utilities and all existing easements on the proposed subdivision;
 - ii. The proposed location of water supply lines and related water service facilities and where any proposed system will connect with existing systems,
 - iii. The proposed location of sewage disposal lines and water service facilities and where any proposed system will connect with existing systems,
 - iv. Culverts, storm water drainage and water quality measures, including profiles where appropriate,
 - v. Utility upgrades required to serve the subdivision if required by the Town's Engineer,
 - vi. The proposed location of all other applicable utilities, including without limitation, telephone, electrical service, television cable and gas and the location of the proposed connections with existing systems, and
 - vii. Statements of approval signed by a representative of each utility provider for the electric, gas, telecommunications, cable television and telephone companies, as appropriate, which shall be in a manner as found on Form 2 in section 16.10.020 (a similar letter shall also be provided from the Kremmling Fire Protection District and

the School District indicating that adequate facilities exist or that the subdivider has agreed to mitigate the impacts of the new subdivision on the district);

Report evaluating the relationship between the available capacity of existing utility systems, including water and sewer treatment facilities, and the projected demand of the subdivided property at full build-out. The evaluation of available utility capacity shall consider and include projected demand by all properties that have previously paid either a System Development Fee or Availability of Service Fee regardless of whether or not such properties currently require water or sewer services. In the event that the report identifies that service to the subdivision shall result in exceeding eighty percent (80%) of the total available capacity, of either the water distribution or treatment system or sewer collection or treatment system, then the report shall identify and recommend alternatives to address and mitigate the shortage of service capacity resulting from the proposed subdivision.

- i. Any revised contour lines related to an established benchmark or other datum approved by the Town's Engineer and having contour intervals as follows:
 - i. For slopes less than ten (10) percent - one foot contours,
 - ii. for slopes ten (10) percent or greater - five foot contours;
 - j. Where the proposed subdivision covers only a part of the property, a conceptual plan for the entire property shall be submitted, and the proposed streets, utilities, easements, and other improvements of the proposed subdivision shall be considered with reference to proposed development of the other portions of the property (the Planning Commission will reasonably decide the level of detail needed on the conceptual plan to judge the proposed subdivision in light of the maximum number and type of units on the property and the surrounding areas);
 - k. Subdivisions adjacent to lands used for agriculture shall submit the following information:
 - i. The location, size, and decreed capacity of any agricultural ditch crossing or adjoining the proposed subdivision,
 - ii. The location of historical easements utilized for any purpose including gaining access to head gates, ditches and fences for maintenance or operation purposes,
 - iii. The location of any established stock drive crossing or adjoining the proposed subdivision and the location of any new fences or other obstacles proposed to be built across such stock drive(s),
 - iv. The location of any proposed or existing fences which will continue to exist after subdivision of the property;
 - l. Such other information as may be required by the Planning Commission or other reviewing agency to aid in the evaluation of the proposed subdivision and to assure that the subdivision is capable of construction without undue adverse effect upon the surrounding area.
10. Landscaping plan: A landscaping plan containing the following information shall be provided:

- a. The landscaping plan shall be overprinted on the preliminary plan, prepared by an architect or a landscape architect familiar with the vegetation and ecology of Middle Park, and shall show:
 - i. Location,
 - ii. Size,
 - iii. Type of proposed landscape features accompanied by a written statement setting forth the types of vegetation,
 - iv. Other landscaping improvements, including steps which will be taken to revegetate all exposed land surfaces, and
 - v. The estimated cost to accomplish the plan;
 - b. To ensure the preservation of existing vegetation in the developed area, an existing vegetation map shall be provided, locating all existing trees and willows and all shrubbery meeting the minimum sizes described in section 16.06.050.7.g., vegetation to be removed, and vegetation to be added to the developed area;
 - c. A description of the proposed program to maintain the landscaping after it has been installed;
 - d. A snow storage plan; and
 - e. All landscaping proposed to be completed by the subdivider for proposed developed parks, trails, and all public areas.
11. Soil erosion control plan: A soil erosion control plan, including re-vegetation and water quality monitoring, meeting the standards set forth in applicable provisions of section 16.07.210 shall be provided:
- a. A description and location of all soil erosion control features shall be provided;
 - b. Pollution avoidance plan which proposes measures to avoid degradation of water ways, water bodies or wetlands.
12. Grading plan: At the request of the Planning Director, the subdivider shall submit a grading plan illustrating the extent and limits of the land disturbance which is to occur on the proposed subdivision. The grading plan shall illustrate existing site features, estimated amounts of cut and fill and shall depict existing and proposed contours, using a contour interval of one (1) foot.
13. Drainage study: A drainage study for the proposed subdivision shall be prepared and the site's drainage system shall be designed by a registered professional engineer according to generally accepted storm drainage practices. The drainage study shall describe how the expected maximum water flows from any twenty-five (25) year flood event, and any one hundred (100) year flood event, shall be directed away from all buildings, other developed areas of the

proposed subdivision and adjacent lands. The drainage study should anticipate flows from existing developed property, the proposed subdivision, other likely, future potential development. The drainage study shall show all existing lakes, water courses, and limits of tributary flows, and where practical, computation of expected tributary flows and the results indicated. The limits of the one hundred (100) year flood plain shall be studied and plotted. Location and sizes of all culverts and other drainage structures shall be provided, and all bridges, drainage ditches, channels and easements shall be shown. A description of how runoff will avoid polluting existing lakes and water courses shall be included.

14. Narrative: The preliminary plan shall be accompanied by written statements containing the following information:
 - a. A tabular summary of the development proposal which identifies the total proposed subdivision in acres, and the number of acres and percentages devoted to the following:
 - i. Residential development with subtotals for:
 - 1) Single family dwellings,
 - 2) Duplexes;
 - 3) Multifamily dwellings, and
 - 4) Mobile homes,
 - ii. Commercial and business development with subtotals for:
 - 1) Commercial, and
 - 2) Business development,
 - iii. Developed parks dedicated to the Town,
 - iv. Other municipal land to be dedicated to the Town,
 - v. Open lands,
 - vi. Roads, streets and trails, and
 - vii. Land for schools;
 - b. The total number of proposed residential dwelling units and their type including single family, multifamily, duplex and mobile homes units;
 - c. A tabular summary of the development proposal which demonstrates that the preliminary plan conforms with all applicable off-street parking and snow storage requirements for the following land uses:
 - i. Multifamily dwellings,

- ii. Commercial and business development, and
- iii. Mid-block street snow storage;
- d. A preliminary estimate of the cost of all required public improvements and a description of proposed method(s) of financing, the tentative development schedule for public improvements, with development phases identified, and proposed performance guarantees;
- e. Any agreements with agricultural ditch owners, when appropriate;
- f. A preliminary draft of any protective covenants or deed restrictions desired by the applicant or these subdivision regulations;
- g. A description of the function, ownership and manner of maintenance of public parks and other facilities, and open land areas to be reserved by the subdivider;
- h. A preliminary draft of any conservation easement, or other document acceptable to the Town, permanently preserving open land as required in section 16.07.040;
- i. A traffic analysis, prepared by a person engaged / employed in the field of traffic engineering, together with maps and diagrams where appropriate, addressing the following:
 - i. The estimated traffic flow on existing streets, roads or highways that will serve or convey traffic to and from the proposed subdivision,
 - ii. The estimated increase in traffic flow on existing streets resulting from the proposed subdivision,
 - iii. Visibility at existing and proposed intersections,
 - iv. The total number of proposed off-street parking spaces excluding parking associated with single family, duplex, or mobile home residential tracts or parcels,
 - v. A description of the alternate transportation facilities proposed to be a part of the subdivision, and
 - vi. An evaluation of the need for road improvements to be made to existing streets based on the impacts of the proposed subdivision;
- j. If any natural hazards or hazardous conditions as described in section 16.06.040.7.n. are identified on the land to be subdivided, a report shall be submitted by a professional, as described below, providing evidence to show that all areas of the proposed subdivision which involve natural hazard areas, hazardous conditions or require special precaution, treatment or development have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions (the following hazards shall be addressed in reports by the following types of expert:
 - i. Blank,

- ii. Mudslide, rockslide or other geologic hazard by a professional engineering geologist,
 - iii. Wildfire, by a professional range scientist or graduate forester,
 - iv. Flood plain, by a licensed professional engineer; and
 - v. Hazardous soils, former or active dump sites, petroleum residual, by a professional engineer and water quality expert;
 - k. A plan for re-vegetation and a reclamation plan for disturbed areas describing the native species and weed prevention measures which will be implemented;
 - l. A plan for dust abatement during and, as applicable, after construction;
 - m. A description of the steps that have been taken to protect and enhance the use of solar energy in the proposed subdivision; and
 - n. Documentation of the subdivision's water requirements per day.
15. Subdivision Improvement Agreement: The proposed subdivision improvement agreement, in the form set forth in section 16.10.040 shall be submitted to the Town. If the subdivider objects to any provisions of the form, those objections shall be set forth in a statement to the Town.
- a. Number of copies. A minimum of twelve (12) copies of all of the above maps, plans and information shall be submitted to the Town. Additional copies may be required if submittal to other agencies is required by the Planning Director or if additional copies are needed for the Planning Commission. All copies are to be provided by the subdivider.

(Ord. 613 §5, 2011; Ord. 435 §1, 1998)

16.06.060 Final plan procedure.

A subdivider seeking approval of a final subdivision plan shall follow the steps outlined below:

1. Pre-Application conference: The subdivider may request a pre-application conference with the Planning Director, prior to submission of a final plan for final subdivision approval.
2. Submit final plan: The subdivider shall make a complete final plan submittal to the Planning Director, containing those materials listed in section 16.06.070 of these subdivision regulations.
3. Final plan distribution:
 - a. The Planning Director may transmit copies of the final plan application to those persons and agencies to whom distribution of the preliminary plan was made, if additional comment is deemed necessary due to the greater detail being provided or substantial modifications to the plan. Recommendations or conditions required by other departments or review agencies may be made conditions of the final plan and final plat approval. The agencies to whom referrals are made shall make recommendations within thirty (30) days

after mailing by the Town of such plans, unless a necessary extension of not more than thirty (30) days has been consented to by the subdivider and the Town.

- b. The subdivider shall respond in writing to all issues raised during the referral process within thirty (30) days after receiving the final department and/or agency comments. Such responses shall be made part of the application and will be used in conjunction with the original submittal as a basis for final Planning Director recommendations to the Planning Commission.
 - c. If the subdivider is unable to supply responses within the thirty (30) days allowed, then the subdivider, in writing, may request a delay of up to ninety (90) days stating the reason for the request. The Planning Director may grant an extension of no more than ninety (90) days. If the subdivider fails to supply responses within the specified time, then the Planning Director shall base the recommendations on the material in the file as it exists and proceed toward a Planning Commission public hearing.
 - d. If in the reasonable judgment of the Planning Director, the responses from the subdivider result in a substantial change in the proposal, then the Planning Director may refer the amended application and supporting materials to those referral departments and agencies to whom distribution of the preliminary plan was made and the processing schedule will be amended to conform to this section.
 - e. The Planning Director may forego the requirements of sections 16.06.060. a., b., and c. if he/she finds that further materials from the subdivider and further comments by the referral departments and agencies are not necessary to fully evaluate the final plan.
4. Staff review and agenda date: The Planning Director shall review the final plan to determine whether it is complete.
- a. If the Planning Director finds the final plan is complete, then a Town Board of Trustees meeting date shall be set to consider the subdivision improvements agreement and any required land dedications. The date shall be set to allow sufficient time for the referrals to occur and comments to be received, as described in section 16.06.060, if appropriate.
 - b. If the application is incomplete or does not comply, it shall be returned to the subdivider, shall not be assigned a meeting date, the Planning Director shall list, in writing, the deficiencies and provide that list to the subdivider and no further action will be taken until its defects are remedied.
5. Review by Town Board of Trustees: The subdivision improvements agreement and any required land dedications shall be reviewed by the Town Board of Trustees. The Town Board of Trustees review shall occur at a properly noticed public hearing.

Public notice shall be provided as defined in the definitions section, 16.02. The Board may approve, approve with conditions, or reject the subdivision improvements agreement. The Board may accept, accept with conditions, or reject the land dedication(s). Any approval of the subdivision improvements agreement and acceptance of land dedications shall be contingent upon final plat approval by the Planning Commission.

6. Approval and Execution of the final plan and final plat: After the subdivision improvements

agreement has been accepted by the Town Board of Trustees, the Planning Commission shall meet to review the final plan and final plat. The Planning Commission review shall occur at a properly noticed public hearing. Unless otherwise provided by this section, public notice shall be provided prior to all public hearings required by this section as defined in the definitions section 16.02.

- a. The Planning Commission shall approve or approve with conditions, the final plan and final plat upon a finding by the Planning Commission that:
 - i. The following have been submitted:
 - 1) The final plat,
 - 2) All required documents as described in section 16.06.070,
 - 3) The subdivision improvements agreement approved by the Town Board of Trustees, and that
 - ii. The final plat complies with the following:
 - 1) The approved preliminary plan, and fulfillment of all the conditions of preliminary plan approval,
 - 2) The subdivision improvements agreement, approved by the Town Board of Trustees,
 - 3) Any land dedication accepted by the Town Board of Trustees,
 - 4) The requirements of these subdivision regulations, and
 - iii. The final plat is consistent with the final plan documents submitted to comply with section 16.06.070.
- b. The Planning Commission shall deny the final plan and final plat unless new technical or other information has been made available upon a finding by the Planning Commission that:
 - i. Any of the following has not been submitted:
 - 1) The final plat,
 - 2) All required documents as described in section 16.06.070,
 - 3) The subdivision improvements agreement, approved by the Town Board of Trustees, or that:
 - ii. The final plat does not comply with the one or more of the following:
 - 1) The approved preliminary plan, and fulfillment of all the conditions of preliminary plan approval,

- 2) The subdivision improvements agreement approved by the Town Board of Trustees,
 - 3) Any land dedication accepted by the Town Board of Trustees,
 - 4) The requirements of these subdivision regulations, or that
- iii. The final plan is not consistent with the final plan documents submitted to comply with section 16.06.070,

A Planning Commission denial shall contain a listing of the reasons for such action.

- c. If new technical or other information has been made available, the Planning Commission may approve, or approve with conditions, the final plan and final plat if it finds that:
 - i. The new information alters previous findings of the Planning Commission concerning the preliminary plan approval;
 - ii. The final plat conforms with the requirements of these subdivision regulations;
 - iii. The final plan submittals conform with the requirements of these subdivision
 - iv. regulations; and
 - v. The subdivision improvements agreement as approved, and dedications as accepted, by the Town Board of Trustees still apply to the final plat.

The Planning Commission is also authorized, at its discretion or upon request by the subdivider, to reasonably continue consideration of the proposed final plan and final plat review for ninety (90) days or less, to a date certain, to provide the Planning Commission, subdivider or staff more time to review new technical or other information that has been made available at the final plat public hearing, or so the subdivider may make modifications or provide additional information before the Planning Commission takes final action.

- d. After the Planning Commission has reviewed and approved the final plan and final plat, the owner(s), notary public, owner's attorney, land surveyor, and any lender if applicable, shall sign one Mylar copy of the approved final plat. After the owner(s) and the above listed representatives of the owner(s) have signed the final plat, the Planning Commission Chairperson shall sign the same Mylar copy of the approved final plat indicating approval by the Planning Commission. After the Planning Commission Chairperson signs the final plat the Mayor shall sign the same Mylar copy of the approved final plat indicating approval by the Town Board of Trustees of the subdivision improvements agreement and acceptance of the dedications and the Town Clerk shall attest the Mayor's signature.

7. Filing:

- a. The following actions shall occur after approval of the final plan and final plat by the Planning Commission and prior to recording the final plat and associated documents.
 - i. The subdivider shall provide the Planning Director with all of the original documents and fees required below:
 - 1) Corrected, modified and amended final plat in accordance with the approval and no other changes,
 - 2) All signatures necessary for execution of the appropriate documents;
 - 3) Final itemized estimates for the cost of required improvements that reflect the final plan and final plat as approved or conditionally approved;
 - 4) The fully executed subdivision improvement agreement approved by the Town Board of Trustees;
 - 5) A final letter of credit or other financial guarantee for the construction of all public subdivision improvements satisfactory to the Town Board of Trustees from the lending institution in accordance with the subdivision improvements agreement;
 - 6) A certification from the County Treasurer's Office that all ad valorem taxes on the proposed subdivision, for the years prior to the year in which recording of the plat is to occur, have been paid;
 - 7) One computer copy of all approved drawings (the computer copy of all approved drawings shall be compatible with the information set forth in section 16.06.080.e.);
 - 8) Payment of all required fees in lieu of land dedications if appropriate;
 - 9) A signed and acknowledged conservation easement or other document acceptable to the Town permanently preserving the required open land;
 - 10) Final protective covenants, if applicable;
 - 11) Payment of any required Capital Expansion Recovery System Fees; and
 - 12) Prepayment to the Town of all of the County Clerk's recording fees.
 - ii. The Planning Director shall sign the face of the final plat authorizing the final plat to be filed for recording upon a finding that:
 - 1) All approved corrections have been made to the final plat and other documents;
 - 2) The subdivision improvements agreement has been finalized;

- 3) The final plat and subdivision improvements agreement have been properly executed by all other appropriate persons;
 - 4) All payments and improvements guarantees have been received, and equal 125% of the estimated improvement costs;
 - 5) All *ad valorem* taxes on the proposed subdivision, for the years prior to the year in which recordation of the plat is to occur, have been paid;
 - 6) All appropriate subdivision improvements have been dedicated to the Town;
 - 7) All appropriate subdivision land dedications have been dedicated to the Town, or fees in lieu of dedications have been paid;
 - 8) All conservation easements and other approved documents have been received for recording or have been recorded which permanently preserve at least the required open land for the number of approved units in accordance with section 16.07.040;
 - 9) All the documents are in the proper order, executed and ready for recordation; and
 - 10) The subdivider has paid the Town all appropriate fees, and prepaid the Town all of the County Clerk's recording fee.
- b. The Planning Director shall cause to be recorded the executed final plat, together with any required subdivision improvements agreement, conservation easements and other documents, in the office of the Grand County Clerk and Recorder.
 - c. The subdivider shall cause to be recorded any protective covenants associated with the subdivision.
 - d. Otherwise, the final approving action of the Town is deemed withdrawn.
8. Enforcement: Failure by the subdivider to meet any applicable condition of the subdivision approval, or the stipulations of the approved subdivision improvements agreement including but not limited to, completing construction of improvements within the time agreed to in the subdivision improvements agreement shall be grounds for the Town to issue a stop work order. (See also section 16.03.040.)
 9. Time for completion and extension: Part of the final plat approval proceedings shall include a determination by the Town Board of Trustees of a reasonable time by which the subdivision improvements should be completed. Extensions of such time limits may be obtained from the Town Board of Trustees for good cause shown, upon request by the subdivider, if made before vacation proceedings are instituted.
 10. Notation of completion date on final plat: All final plats given approval by the Town shall contain a notation indicating the above time by which subdivision improvements are to be completed. This notation shall be prima facie evidence of a reasonable time by which the

subdivision improvements should have been completed.

11. Obtaining a building permit and sale of tracts or parcels: The subdivider may construct the subdivision improvements after the final plat, improvements agreement, and other documents to be recorded have been approved, duly executed and filed of record. No tract or parcel or any interest in them shall be transferred, conveyed, sold to or accepted by, another party and no building permit shall be issued until all applicable conditions of the subdivision improvements agreement are met, the Final Plat, subdivision improvements agreement and other documents are recorded, and the subdivision improvements are constructed and the Town has preliminarily accepted then in accordance with Section 16.06.080.7.
12. Amendments subsequent to approval: A Final Plat, including any provision, stipulation, restriction or covenant which is subject to Town regulation, filed and recorded as part of the Final Plat shall not be altered subsequent to Final Plat approval by the Town, unless said change is first referred to and approved by the Planning Commission. Such changes may be referred to the Planning Commission by the Planning Commission for recommendations to the Planning Commission. Any proposed changes, other than corrections of errors, to the final plat or final plan shall be considered for approval as a re-subdivision request under these subdivision regulations and shall follow the process described in the Minor Subdivision process unless the number of tracts or parcels affected exceeds the number of tracts or parcels for a minor subdivision, or unless the proposed changes would otherwise be a major subdivision as described in section 16.04.020. In such a case, the re-subdivision and review by the Planning Commission shall begin with the sketch plan stage of the major subdivision process.

(Ord. 435 §1, 1998)

16.06.070 Final plan submittals.

Unless otherwise specified, the application for approval of a final plan shall contain four (4) copies of the following information. If referrals are to be made, the subdivider shall provide the additional number of final plan submittals, adequate for all referrals.

1. Title report: A title report prepared by a licensed title or abstract company containing the legal description of the proposed subdivision and identifying, listing and certifying the following:
 - a. A listing of all owners of record of the proposed subdivision;
 - b. A list of all liens and encumbrances against the proposed property together with the book and page and reception number of each encumbrance as recorded in the office of the Grand County Clerk and Recorder; and
 - c. All owners of any surface, subsurface or above surface estates, rights or interests in the proposed subdivision, the nature of and description of such estate, right or interests; and the addresses of all such owners.

If the above information is contained in the submittal required in section 16.06.050.3, an endorsement or certificate that no changes in ownership, encumbrances or liens has occurred may be submitted.

2. Final plat: The final plat shall:

- a. Provide a permanent and accurate record of the exact size, shape, location and authorized use of the tracts or parcels, blocks, streets, easements, improvements, monuments, common areas and other parcels of land within the proposed subdivision;
 - b. Provide adequate space for construction of public improvements;
 - c. Dedicate public lands and space for improvements, parks, and any other land to be dedicated to the Town or other appropriate public entity including without limitation the School District, and the Kremmling Fire Protection District in a manner that complies with the language in section 16.10.030; and
 - d. Be prepared by, or under the supervision of, a registered land surveyor licensed within the state of Colorado.
3. The final plat shall contain the following information and conform to the following specifications:
- a. One original, drawn with indelible ink on reproducible Mylar, and four (4) prints of the final plat;
 - b. Sheet size shall be twenty-four inches by thirty-six inches (24" x 36") with a one-half inch (1/2") border on the top, bottom and right-hand side and a one-and-one-half inch (1 1/2") border on the left side. As many sheets as necessary may be submitted;
 - c. All final plat map titles, road names, statements, certificates, notes, and sheet numbers shall be oriented, to the greatest extent practicable, to the bottom (36 inch dimension) of each sheet;
 - d. Each sheet of the final plat shall display the particular number of the sheet and the total number of sheets, and shall clearly show the location relationship of land areas depicted on the overlay sheet by use of a small key sketch;
 - e. The final plat map scale shall be drafted in a scale that best conveys the detailed survey, engineering, and design of the proposed subdivision and confines drafting error to less than one percent (1%). Acceptable scales are one (1) inch equals fifty (50) feet to one (1) inch equals one hundred (100) feet but the scale shall be such as to clearly convey the necessary information listed in this section. The scale may be increased or decreased if necessary to fit the paper, but in all cases the scale used shall be in multiples of ten (10);
 - f. Each sheet of the final plat shall display, in a prominent location and with prominent lettering, the subdivision name, generalized legal description and total acreage of the land to be subdivided. An example of the acceptable form is as follows:

FINAL PLAT of
SUBDIVISION NAME
A SUBDIVISION OF A PART OF THE
N1/2 OF THE NE1/4 OF SECTION 7, T1N, R8OW OF THE 6TH P.M.
KREMMLING, GRAND COUNTY, COLORADO

AREA = 78.183 ACRES

- g. Each sheet shall show a written and graphic scale, north point (designated true north), and the date of the survey;
- h. The locations and exact dimensions of all easements, including those shown on the preliminary plan, and a grant thereof to the public use or the specific entity which will use the easement whether dedicated to a specific agency, individual or body, and the purpose(s) of each easement;
- i. Location of the proposed subdivision by reference to permanent survey monuments, with a tie to a section corner or a one-quarter (1/4) section corner;
- j. Bearings and dimensions to the nearest hundredth of a foot (1/100') of tract or parcel lines and street centerlines;
- k. All tracts or parcels and blocks shall be numbered in consecutive order for ease of identification (when blocks and tracts or parcels continue the Town grid, blocks shall be numbered beginning with the number next to the last block and tract or parcel numbers shall begin in the northeast corner of the block and end in the southeast corner of the block);
- l. The area of each tract or parcel in acres or in square feet shall be indicated;
- m. Proposed ownership and use of open land shall be indicated;
- n. All thoroughfares shall be named as follows:
 - i. North/south streets shall be numbered,
 - ii. Blank,
 - iii. Streets and avenues in alignment with existing streets and avenues shall be named according to the streets or avenues with which they correspond;
- o. The names of abutting subdivisions shall be indicated with dotted lines for abutting lots, tracts or parcels, and if adjacent land is unplatted, it shall be shown as such;
- p. All section, range and Township lines shall be shown and must close within the limits of one in ten thousand (1/10,000); all tract or parcel lines must close within the limits of one in ten thousand (1/10,000);
- q. All curve data shall be shown in chart form on the face of the plat;
- r. Radii, angles, points of curvature and length of all arcs shall be indicated;
- s. Information and measurements complying with all monumentation, plat and survey requirements of titles 50 and 51 of Title 68, C.R.S.;
- t. An identification of the streets, alleys, parks, trails and other public areas or facilities as

- shown on the preliminary plan, a dedication thereof to public use, and identification of areas reserved for future public use;
- u. A written legal description of the proposed subdivision, including the total acreage to the nearest one thousandth (.001) of an acre;
 - v. A statement by the land surveyor explaining how bearings, if used, were determined;
 - w. Approved certificate language as set forth in section 16.10.C.;
 - x. The following certificates are required on the final plat:
 - i. A certificate by the registered land surveyor as to the accuracy of the survey and plat and that the survey was performed by him or her,
 - ii. A certificate of a title guarantor title insurance company that the person dedicating to the public the public rights-of-way, areas or facilities as shown thereon are the owners thereof in fee simple, free and clear of all liens and encumbrances except those listed,
 - iii. A certificate showing approval of the plat by the Planning Commission and the Planning Director;
 - iv. A certificate stating that the plat and the dedications are accepted by the Board of Trustees, and bearing the signature of the Mayor and attestation by the Town Clerk, (Ord. 539 §20, 2008; Ord. 435 §1 1998)
 - v. A certificate of ownership and dedication,
 - vi. A certificate of mortgage and approval by mortgagee, if applicable,
 - vii. A certificate of recordation for the County Clerk and Recorder including the date and time, a space for the reception number and the recorder's signature, but no book and page numbers; and
 - y. Any other information reasonably required by the Planning Commission.
4. Complete engineering plans and specifications and estimated costs for all improvements to be installed in the subdivision, including but not limited to water, sewer, and all other utilities, streets and related improvements, trails, bridges, excavations, landscaping and storm drainage.
 5. A landscape plan showing location, size and type of proposed landscape features, where such features are located on common or dedicated areas.
 6. Copies of any monument records required of the land surveyor in accordance with Colorado Revised Statutes.
 7. A certified statement by the subdivider stating that all supplemental information furnished with the preliminary plan is embodied in the final plan and final plat or, if this is not the case, revised supplemental data of the same scope and format as required for the preliminary plan shall be furnished with the final plan and final plat.

8. Three (3) copies of all draft protective covenants or restrictions placed on the proposed subdivision, one of which shall be properly executed and acknowledged and filed with the final plat, following consultation with the Town and insertion of any amendments reasonably required. Such covenants shall not conflict with the existing or proposed zone district minimum or maximum dimensional or use standards, or the “Kremmling Design Guidelines.”
9. Two (2) copies of the draft conservation easement(s) or other document(s) acceptable to the Town, permanently preserving open land for the proposed number of units as set forth in section 16.07.040.
10. Upon request of the Town, the final plan application shall include an unexecuted warranty deed conveying to the Town all lands dedicated to the Town, other than streets, alleys and rights-of-way as shown on the final plat.
11. A subdivision improvements agreement in the form substantially as set forth in section 16.10.040 “Subdivision Improvements Agreement.”
12. Financial security for public improvements to be built by the subdivider as required in section 16.06.080.3.
13. A statement that the subdivider covenants that all information presented for the final plan is accurate and acknowledging that the Town is being asked to make a decision to approve or disapprove the proposed subdivision based on the information presented to it by the subdivider.
14. A 14” x 18” black line Mylar for 911 address purposes.
15. Any other documents, certificates or information reasonably deemed necessary by the Planning Commission.

(Ord. 613 §6, 2011; Ord. 435 §1, 1998)

16.06.080 Subdivision improvements agreement.

1. Purpose: The subdivision improvements agreement is a contract between the Town and the owner of the proposed subdivision. It describes the improvements to be constructed by the subdivider and sets forth directly, or by reference, the construction specifications for these improvements. It provides a date for completion of the improvements and sets forth other terms and conditions including without limitation, warranties, remedies for default by the owner, and acceptance of the improvements by the Town.
2. Agreement required: No final plat shall be executed by the Mayor, Town Clerk, Planning Commission Chairperson or Planning Director until the subdivider has submitted, and the Town Board of Trustees has approved, a subdivision improvements agreement (only if improvements are required), committing to timely construct those improvements which have been required pursuant to these subdivision regulations and according to specification. The subdivision improvements agreement shall be in a form substantially as set forth in section 16.10.040.
3. Collateral required:

- a. Suitable collateral to ensure completion of the public improvements according to design and time specifications in an amount stipulated in the subdivision improvements agreement, but no less than 125% of the estimated costs, including landscaping, as agreed upon by the subdivider and the Town, shall accompany the signed final plat submission for filing. The collateral shall be in the form of a certificate of deposit, letter of credit or other such legal assurance as may be deemed appropriate by the Town Board of Trustees.
 - b. Should a subdivider not provide collateral to ensure completion of the required public improvements, work on the improvements shall not be commenced, and the final plat shall not be executed by the Mayor, Town Clerk, Planning Commission Chairperson or Planning Director.
4. Release of collateral: The subdivider may apply in writing to the Town Board of Trustees for a partial or full release of collateral as the required public improvements in a subdivision are completed.
 - a. Upon receipt of such applications, the Town Manager shall cause the public improvements which have been completed to be inspected.
 - b. If the Town Manager determines from such inspection that the improvements have been made in accordance with the final plan, the final plat and the subdivision improvements agreement, a portion of the collateral may be released upon authorizing resolution by the Board; however, collateral sufficient to cover at least one hundred twenty-five percent (125%) of the estimated cost of any incomplete improvements shall be retained.
 - c. No partial releases of collateral will be granted in amounts less than twenty percent (20%) of the total original collateral.
 - d. The last twenty percent (20%) of the original collateral will not be released until all the improvements have been accepted and any applicable warranty periods have expired.
5. Use of collateral by Town: If the Town Manager determines that reasonable grounds for insecurity exist with respect to the performance of the subdivider, the Manager shall so notify the subdivider in writing, stating that the Town intends to withdraw funds from the collateral for the purpose of correcting, repairing or completing the improvements, giving the reasons therefor and informing the subdivider of his/her right to be heard before the Town Board of Trustees within thirty (30) days from the date of notification. After the earlier of a hearing thereon or said thirty (30) days, if the Board determines that the subdivider will not or cannot construct the public improvements in accordance with the subdivision improvements agreement, the Town may withdraw funds from the collateral and expend such funds as may be necessary to correct, repair or construct the agreed upon public improvements, to include covering such costs, including reasonable attorneys' fees, as are necessary for the Town to administer the construction and correct, repair or complete the improvements.
6. Phased inspections and correction of defects:
 - a. Upon completion of each phase of public improvements construction, as set forth in the subdivision improvements agreement, the subdivider shall notify the Town Manager and request inspection. The Town Manager shall cause the completed public improvements to be inspected and shall within five (5) days notify the subdivider, in writing, whether or not

any unsatisfactory conditions were found.

- b. Upon notification of unsatisfactory conditions, the subdivider shall take necessary corrective measures and shall again request inspection. Such process shall continue until the subdivider receives notification that no unsatisfactory conditions exist.
 - c. If the Town Manager determines that the subdivider is not constructing any or all of the improvements in accordance with the subdivision improvements agreement and specifications, the Town Manager shall notify the subdivider of noncompliance, and shall have the power to stop construction work on the subdivision improvements until a schedule and agreement on compliance has been reached.
 - d. If it is necessary for the Town, as determined by the Town, to hire an engineer for inspections of the improvements, the subdivider shall reimburse the Town for expenses incurred by the Town for an engineering consultant prior to final acceptance by the Town.
7. Preliminary acceptance:
- a. Upon completion of public improvements construction, the subdivider shall notify the Town Manager and request inspection. The Town Manager shall cause all public improvements to be inspected and shall notify the subdivider within five (5) days in writing of non-acceptance or preliminary acceptance. If the public improvements are not acceptable, the reasons for non-acceptance shall be stated, and corrective measures shall be outlined.
 - b. Upon preliminary acceptance, the Town will assume responsibility for snow removal and other normal routine maintenance, but the subdivider shall remain responsible for all other maintenance and repairs pending final acceptance. After preliminary acceptance of the improvements, the Town may issue building permits for structures on the lots or tracts in the subdivision. Upon application, the Town may then release up to eighty percent (80%) of the collateral required for all public improvements. At the Town's option, it may elect not to plow the streets until there is development on individual lots or tracts that warrant access.
 - c. The Town shall not be required to make inspections during any period when climatic conditions interfere with making a thorough inspection, as determined by the inspecting person.
 - d. Prior to Town acceptance of any public improvement located within an irrigation ditch easement, the subdivider shall provide the Town with an affidavit confirming that the ditch is presently located in compliance with Colorado law and that the placement and use of the improvements within the ditch easement do not violate C.R.S. 37-86-104, *et. seq.*, as amended, or other applicable Colorado law.
 - e. As a condition for preliminary acceptance of the improvements, the subdivider shall submit one computer copy of all "as-built" drawings for all improvements, including private utility lines, to the Town on any of the following devices;
 - f. A 3 1/2 inch computer disk, which shall be readable by the Town computer system. Data submitted becomes the property of the Town of Kremmling. A brief summary of the

source of the data, including but not limited to company name, and address, date, map number, date of last revision, scale and any applicable source data used in compiling or obtaining the data shall be included.

- g. Upon preliminary acceptance of all the subdivision improvements by the Town, the subdivision may begin closing sales of the tracts or parcels, and building permits may be issued by the Town.
8. Final acceptance and release of collateral:
- a. Twenty-four (24) months following preliminary acceptance, the Town shall inspect all public improvements for final acceptance, except that landscaping shall be inspected only in the months of July and August and at least twenty-four (24) months after preliminary acceptance. The Town Manager shall notify the subdivider in writing of non-acceptance or final acceptance. If the improvements are not acceptable, the reason for non-acceptance shall be stated in writing, and corrective measures shall be agreed upon by the Town and subdivider, and timely completed by the subdivider.
 - b. Upon final acceptance, by a resolution of the Town Board of Trustees, the Town shall release the remaining collateral and assume all future maintenance and repair responsibilities for the public improvements.

(Ord. 435 §1, 1998)

16.06.090 Subdivision dedication requirements.

- 1. Purpose: New subdivisions require services provided through municipal facilities which are provided, in part, through the dedication of land necessary to construct the facilities. If there is no land dedication by new subdivisions, sufficient land may not be made available at the time of subdivision to provide necessary services to new residents. In order to provide public services, the Town requires certain dedications of land, or in the appropriate circumstances, payment of fees in lieu of dedication. It is the intent of section 16.06.090 and these subdivision regulations that new developments pays its proportionate or pro-rata share of the costs attributable to the new growth, thereby relieving the public generally from subsidizing the cost of improvements and facilities attributable to new development. It is the further intent of this section that the system be understandable and easy to apply, and that policies and fees be subject to revision as conditions change.
- 2. Applicability and time of dedication: Each major subdivision of land within the Town of Kremmling shall dedicate land, or where appropriate pay a fee in lieu of dedication for parks, streets, municipal land, schools, fire services, and trails in accordance with this section. Unless another means of dedication or conveyance is approved by the Town, each required dedication shall be made on the final plat. Where a payment in lieu of dedication is permitted and approved by the Town, such payment shall be made a condition of subdivision approval and shall be made prior to the recordation of the final plat. All property held by a governmental entity for public use shall be exempted from the dedication requirements imposed by this section.
- 3. Interest in land to be dedicated: Unless otherwise provided by this section, or approved by the Town Attorney, all dedications shall be made in fee simple and lands dedicated shall be free and clear of liens and encumbrances.

4. Street dedication requirement: All roads, streets, alleys, or other public traffic ways located within the proposed subdivision and those that are necessary to serve the proposed subdivision shall be dedicated as public rights-of-way on the final plat for the subdivision.
5. Park dedication requirement:
 - a. The following minimum land acreage shall be dedicated to the Town for public park purposes:
 - i. For each single family dwelling unit or mobile home unit, .027 acres,
 - ii. For each multifamily dwelling unit, .033 acres;
 - b. Land dedicated for public park use for a subdivision may include historic or natural features and shall:
 - i. Lend itself to utilization for active recreational use such as play areas, picnic areas, trails, ball fields, or recreational structures (to achieve these uses, park sites shall, at a minimum, not be located in any type of wetland, be dry, accessible from a street, or trail if approved by the Town, and shall include a minimum of ninety percent (90%) of the land with a slope of five percent (5%) or less),
 - ii. Include the dedication of water rights adequate to irrigate all land dedicated for park use,
 - iii. Not include land dedicated for school use where such dedication would not permit uninterrupted and continuous public use of the park,
 - iv. Not include steep slopes, hazardous geologic formations, hazardous waste sites, adverse topography, or other features that may be harmful to the health, safety, or welfare of the public or may restrict the reasonable public use thereof,
 - v. Not be less than three thousand (3,000) square feet in size unless approved by the Town,
 - vi. Be located to create large public spaces rather than many small public spaces at the minimum size, unless approved by the Town,
 - vii. Be located so as to preserve air quality, the natural environment, and community integrity in the most practicable, attractive manner possible,
 - viii. Be designed to link open lands, trails, and other major components of the Town's recreational system,
 - ix. Not include land developed for storm water control unless the design of any recreational amenities is clearly safe from hazards caused by use of the land as a storm water control area, and
 - x. Be located within or in the vicinity of the proposed subdivision so that the park land

benefits residents of the subdivision.

- c. Where the required park land dedication per unit within a proposed subdivision would not meet or exceed the minimum park size defined in section 16.06.090.5.b. above because of the small size of the proposed subdivision, the subdivider shall make a payment of a fee in lieu equivalent to the cost of dedicating the required acreage of park land.

6. Trail Dedication: Reserved

7. Fire Protection Facility Site Dedication: Reserved

8. School site dedication:

- a. All major subdivisions as defined by the Kremmling Subdivision Regulations shall provide for public school sites to serve the proposed subdivision and the future residents thereof in accordance with these provisions.
- b. Provisions of land areas for schools shall be at the rate of .027 acres per single family dwelling unit and .0054 acres for multi-family dwelling unit allowable within the subdivision. Such provision may include, subject to Board of Trustee approval:
 - i. Dedication of such sites and land areas shall be made at the time of the final platting in one(1) or any combination of the following ways:
 - a. By dedicating to the West Grand School District in fee simple on the final plat,
 - b. By granting the land in fee simple by General Warranty Deed to the West Grand School District;
 - c. Land areas not acceptable in determining the fulfillment of the requirements for the provisions of land areas for public school sites shall include the following:
 - i. Natural drainage ways, streams, gullies, and rivers including all lands within the one hundred (100) year floodplain,
 - ii. Right-of-way and/or easement for irrigation ditches and aqueducts,
 - iii. Steep or rugged land areas, hazardous geological land areas, hazardous wildfire land areas, and such other areas as are not conducive for use as school lands.

(Ord. 440 §1, 1999; Ord. 435 §1, 1998)

9. Substitute land dedication: As an alternative means of satisfying the required dedication of land within a proposed subdivision as provided by this subsection, a subdivider may offer to the Town a substitute dedication of land of equivalent size owned by the subdivider that is located outside of the proposed subdivision; provided, however, that nothing herein shall obligate the Town to accept such substitute dedication. The Town shall not accept any substitute dedication located more than three miles from the Town boundary existing at the time of subdivision.

10. Payment in lieu of dedication: In lieu of dedication of land areas for public school sites, the Town of Kremmling may require a payment of a sum of money not to exceed the full market value of such sites and land areas at the time of final plat submittal. The land classification used by the County Assessor for the most current assessment period of such sites and land areas will be the basis for determining full market value.
 - a. Full market value shall be determined by mutual agreement between the subdivider and the Board of Trustees. In the event of inability of the above parties to agree on the full market value of the sites, an independent party, being a qualified appraiser in the County of Grand, Colorado, shall be selected by mutual agreement of the parties. Said independent party's findings on full market value of the site shall be binding on all parties. A qualified appraiser shall be a member of the Appraisal Institute (MAI) or a member of the Society of Real Estate Appraisers. The subdivider shall pay the costs of said appraisal.
 - b. Payments made under the requirements of this section shall be made payable to the Town of Kremmling. The Board of Trustees shall receive such fund at the time of the final plat approval and deposit them with the Town Treasurer who may in turn deposit such funds in any Town approved and designed financial institution.
 - i. Such funds shall be deposited to a special interest-bearing account for the West Grand School District. Each deposit shall be credited to the name of the subdivision for such the payment is made. The status of this account shall be reported annually to the Board of Trustees and shall be made available to the school district and the general public.
 - ii. Funds may be withdrawn from the special escrow account as provided by statute.
 - c. The Board of Trustees shall from time to time adopt a resolution setting forth the formula to be used to determine the sums of money to be paid in lieu of dedication of land areas.

(Ord. 440 §2, 1999; Ord. 435 §1, 1998)

11. Payment in lieu of water rights for public park requirements: Where payment in lieu of public park land is made in accordance with this section, the subdivider shall also either dedicate sufficient water to irrigate park land in the Town equivalent in size to the land that otherwise would have been required for dedication, or shall make an additional payment in lieu of water rights sufficient to irrigate land equivalent in size to the land that otherwise would have been required for dedication including any costs necessary to deliver the water to the public park land. In determining the amount of payment in lieu of such water rights, the Town shall obtain an appraisal from a qualified person or company acceptable to the Town and the subdivider, at the subdivider's cost.
12. Waiver of Requirements: The Town may waive a required dedication of land or the payment in lieu of dedication required by this section in the following cases:
 - a. When the project has already been fully developed and the subdivision of land is necessary to bring the land into conformance with the as-built or as-constructed development;
 - b. When the development does not result in any increase in demand for park, trail, fire, or

school facilities; or

- c. When the subdivider has provided more dedications than required for other purpose(s) or other contributions and the Town Board of Trustees finds it to be in the best interests of the, health, safety and welfare of the Town to waive such requirements.

(Ord. 435 §1, 1998)

16.06.100 Capital expansion recovery system.

- 1. Intent. It is the intent of this section to adopt a rational system for identifying growth related costs incurred by the Town in providing for new and expanded capital facilities made necessary by expanded population levels, to develop a fee structure therefor directly related to such costs, and to provide a method for collection of such fees.

It is the further intent of this subsection that such fees accurately reflect actual growth related capital costs, that once such costs are paid, ongoing operating charges will be similar to charges imposed in other areas of Town prior to such development, that the system be understandable and easy to apply, and that policies and fees be subject to revision as conditions change.

- 2. Fees imposed:

- a. There are hereby imposed capital expansion fees upon every additional unit in new subdivisions as set forth in table A entitled capital expansion fees per unit.

Table A
Capital Expansion Recovery System Fees per Unit

| Function | Each Single Family Residential Unit | Each Multi-Family Residential Unit | Each Business/Commercial/ Tourist Unit |
|---------------------|---|--|--|
| Municipal Buildings | Reserved | Reserved | Reserved |
| Fire | Reserved | Reserved | Reserved |
| Marshals | Reserved | Reserved | Reserved |
| Library | Reserved | Reserved | Reserved |
| Park Improvements | Reserved | Reserved | Reserved |
| Trails | Reserved | Reserved | Reserved |
| Total | Reserved | Reserved | Reserved |

- b. There are hereby imposed capital expansion fees upon every additional square foot of street right of way in new subdivisions as set forth in table B entitled capital expansion fees per square foot of right-of-way.

Table B
Capital Expansion Recovery System Fees per Square Foot of Right-of-Way

| Function | Single Family | R2 Zoned Multi-Family | Business/Commercial/ Tourist Areas |
|-------------------------|------------------|--------------------------|---------------------------------------|
| Snow Plow Equipment: | | | |
| If Real Estate Transfer | \$ | \$ | \$ |

Tax has been paid

| | | | |
|-------------------------|----|----|----|
| If Real Estate Transfer | \$ | \$ | \$ |
| Tax has not been paid | | | |

The uses apply to the right-of-way in each zone district in which the right-of-way is located. Zone districts extend to the center of each right-of-way.

- c. Capital expansion recovery system fees shall be due and payable prior to recording the final plat. (See section 16.06.060.7.a.i.11).
3. Exemption from fee: The Town Board of Trustees, in its sole discretion, may by resolution grant an exemption for all or any part of the capital expansion recovery system fee imposed upon a new subdivision upon a finding that such waiver is in the best interests of the public by virtue of the fact that the subdivider will provide specific public facilities which directly enhance the recreational, social, economic, or cultural facilities of the community and that such subdivider provided public facilities are approximately equivalent in value to the otherwise required capital expansion recovery system fee.
4. Disposition of fees: All fees collected pursuant to this section, shall be deposited in an account identified for each Function in the capital expansion fees table above, to be created by resolution of the Town Board of Trustees, and to be used for the capital needs therein identified. Such resolution shall be adopted to comply with the provisions of section 31-1602(1)(f)(I), Colorado Revised Statutes.
5. Review: The fees imposed by this subsection and moneys expended from the accounts created as required, shall be reviewed annually. The Town Manager shall report to the Board, as part of the presentation of the annual proposed budget, the actual and proposed expenditures, and projects accomplished and to be accomplished from the accounts.
6. Refunds: Subdividers may request a refund of their fees if they are not spent within seven (7) years from the date they were paid. Fees are deemed to be spent in the order in which they are collected. If it is determined that the fees or a part thereof have not been spent within the above seven (7) year period, the fees shall be refunded to the owner(s) of the subdivision.

16.07 - Subdivision Design and Improvement Standards

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16.07.010 General requirements.

1. Criteria for Review of Subdivision: No proposed subdivision shall be approved unless the Planning Commission finds that it complies with the applicable general and specific design and improvement standards set forth below. If the proposed subdivision does not comply with the design and improvement standards, it shall either be approved with conditions which assure compliance with all such standards, continued to a date certain, or it shall be denied.
2. All subdivisions in the Town of Kremmling shall comply with the following general requirements. They shall:
 - a. Conform to these subdivision regulations, the existing or proposed underlying zone district(s) and the Kremmling Comprehensive Plan;
 - b. Provide an overall public benefit to the Town;
 - c. Provide adequate access for fire protection and emergencies;
 - d. Result in no significant unmitigated adverse impacts on public facilities, rights-of-way, or utilities;
 - e. Result in no significant unmitigated adverse effects on the use of adjacent property, or adversely affect the future development of surrounding areas;

- f. Result in leaving existing lots or the creation of tracts or parcels which are capable of being built upon in conformance with these subdivision regulations, the final plat conditions, existing zone districts, the currently adapted edition of the Uniform Building Code and other adopted plans and regulations; and
 - g. Take into account the character of the land to be subdivided, the surrounding area, and the climate.
3. Subdivisions to be based on the site analysis:
- a. To the maximum extent practicable, subdivision development shall be located to preserve the natural features of the property, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features. The subdivision design shall preserve sensitive natural features, even if at the expense of maintaining the traditional Town grid pattern discussed in section 16.07.030.2.
 - b. Land subject to natural hazards such as flooding, falling rock, soil creep, wildfire, or other natural hazards or conditions shall not:
 - i. Be platted for any use which might endanger the health, safety or welfare of the inhabitants; or
 - ii. Contain public rights-of-way or utilities, unless the subject hazard cannot be adequately avoided as determined by the Town;
 - c. The design and development of subdivisions shall preserve, to the maximum extent possible, the natural terrain, bodies of water, marshes, wetlands, drainage, existing topsoil, and vegetation, including tree masses, large individual trees, willow masses and large individual willow bushes.
 - d. Subdivisions shall be designed to:
 - i. Avoid adverse impacts on ground water and aquifer recharge areas;
 - ii. Minimize cut and fill;
 - iii. Avoid unnecessary impervious cover;
 - iv. Avoid increasing the potential for damage due to flooding;
 - v. Avoid or mitigate adverse effects of noise, odor, and traffic; and
 - vi. Minimize development that would negatively affect sensitive natural features.
 - e. Subdivision design shall, to the maximum extent possible, preserve:
 - i. Existing and historical trails,
 - ii. Existing and historical wildlife movement corridors, strutting grounds or other wildlife habitat, and

- iii. Existing historic structures.
- 4. Improvements at subdivider's expense: Unless otherwise provided, all improvements shall be made at the subdivider's expense, according to the specifications described herein.
- 5. Efficiency: Subdivision design shall provide for efficiency in the installation and maintenance of all public and private facilities and services.
- 6. Patterns of development: The proposed subdivision shall not be designed to create development patterns that cause inefficiencies, duplication or premature extension of public facilities, or unnecessary public costs.
- 7. Unanticipated field conditions: Where field conditions require changed or additional construction techniques, such as the need for certain drains to intercept a previously unknown drainage problem which will interfere with a subdivision improvement, the Town may require reasonable additional measures to be taken. Failure to take required corrective action may result in the Town not accepting the improvements and therefore, not allowing sales of tracts or parcels, or issuing building permits or certificates of occupancy within the subdivision.

(Ord. 435 §1, 1998)

16.07.020 Steep slopes.

Development shall not occur on slopes greater than thirty percent (30%). In general, such steep land, unstable land and land with inadequate drainage shall not be platted unless a part of each tract or parcel, sufficient to accommodate a building unit, is deemed buildable by a qualified engineer approved by the Town, without the use of precautions, such as cribbing or retaining walls, other than retaining walls less than four (4) feet high and less than twenty-five (25) feet long unless otherwise approved by the Town. In steep areas, particular attention must be paid to geologic and soil conditions, road grades, cut-and-fill slopes and revegetation.

(Ord. 435 §1, 1998)

16.07.030 Subdivision design.

All subdivisions shall comply with the following site requirements:

- 1. Building site sizes: Remaining lots and new tracts or parcels (building sites) must comply with the minimum and maximum size, width, setback and frontage requirements, and all other applicable dimensional limitations of the proposed or existing zone district. The size of neighborhood parks and snow storage areas may vary from this requirement.
- 2. Block and building site patterns: Residential blocks and building sites shall be shaped to reflect the traditional grid pattern of the Town and where the topography requires different shapes, tracts or parcels (building sites) shall be shaped so as to accommodate a lawful dwelling unit within the setbacks required by the applicable zone district. When the topography suggests shapes other than the traditional grid pattern of the Town due to features such as hills or rivers, tracts or parcels shall utilize natural dividers as their boundaries.
- 3. Parking: Tracts or parcels shall be designed with off street parking adequate to accommodate the requirements of the existing or proposed underlying zone district(s) and proposed use for

each tract or parcel. Each residential unit shall have a minimum of two, surfaced, off street parking spaces measuring a minimum of 10' x 20' each.

4. Configuration of each building site:

- a. The configuration of each lot, tract, or parcel (building site) shall be laid out generally to approximate a rectangular shape to allow for easy identification of boundaries by future owners and neighbors.
- b. Side lot, tract, or parcel lines shall be substantially at right angles or arranged like radii, to street lines.
- c. No lot, tract, or parcel shall be laid out so as to be located in two (2) governmental jurisdictions, including special districts, providing the same services.
- d. Each lot, tract, or parcel shall have safe access to a public street. Driveways shall not exceed a seven percent (7%) grade. The preferred intersection angle is ninety (90) degrees; the minimum angle is forty-five (45) degrees. Primary vehicular access to tracts or parcels shall not use easements across adjacent lots, tracts or parcels. Access to lots, tracts and parcels shall not cross steep slopes or other areas of natural hazard or open land, unless no other access is reasonably available and such access is approved by the Town. Access and roadways through open lands is strongly discouraged unless no other access is available due to topographic or other natural features.
- e. Each lot, tract, or parcel shall be provided with at least twenty-five (25) feet of frontage on an approved public street or avenue or the minimum lot width in the existing or proposed zone district, whichever is less.
- f. Lots, tracts, or parcels with double frontage, except corner lots, tracts, or parcels, shall be avoided, except where necessary to provide separation from incompatible land uses or because of the slope of the site.
- g. Lots, tracts, or parcels with unusual configurations, other than rectangles, will be discouraged, unless topography or other physical limitations of the property suggest otherwise.
- h. The depth and width of lots, tracts, or parcels laid out for business or commercial purposes shall be adequate to provide for the off street parking, loading facilities, snow storage and trash receptacles required or necessary for the type of use contemplated.
- i. If alleys are constructed, they shall be a minimum of twenty (20) feet wide to allow minimal space for snow storage and utility equipment use in the alleys.
- j. If lots, tracts, or parcels are in a grid pattern, it is recommended they be oriented so their longer dimension is on the north-south axis (with the blocks on an east-west axis).

5. Major highways: The Town may require screening or a buffer between tracts or parcels and arterial roads.

6. Snow storage - Blank

7. Service access: Multi-family and business and commercial developments shall provide adequate garbage collection facilities, access to such facilities, suitable service access, and other facilities reasonably deemed desirable by the Town. Sites for above-ground utility installations should be provided outside of right-of-way dedications. Attempts should be made to service more than one tract or parcel from these locations.
8. Excavations and fills: Excavations and fills shall be minimized to the extent reasonably possible, designed in a manner compatible with adjacent properties, re-vegetated with native vegetation and maintained by the subdivider or his / her successors if necessary.
9. Existing structures: Existing structures shall be located on sites which comply with the applicable zone district requirements unless one or more of the dimensions of the existing structure exceeds the maximum building site width or length. In such cases, the subject lot shall be designed to conform to the established setback requirements of the existing or proposed zone district.
10. Block lengths: Block lengths shall conform to existing Town patterns unless another length is necessitated by topography or other physical limitations of the property.
11. Block widths: Block widths shall conform to existing Town patterns unless another width is necessitated by topography or other physical limitations of the property.
12. Pedestrian walkways - Reserved
13. Buffers: A buffer shall be required where a subdivision is adjacent to an intensive use such as a highway or recreational facility from which the subdivision should be protected; or a natural feature, such as a lake, which should be protected from the impacts of the subdivision. If adverse impacts are suspected, or buffers or screening deemed appropriate, the Town may require plantings, berms, screening, the retention of existing vegetation, fencing or other reasonable measures to substantially reduce adverse impacts. Acceptable screening shall include trees, and berms and may include fences if approved by the Town. No improvements shall be constructed in a manner that would create adverse impacts to the buffered area.
14. Park size and access:
 - a. The minimum park size shall be three thousand (3,000) square feet.
 - b. Neighborhood pocket parks should be located occasionally throughout a subdivision, but most required park acreage should be combined to create areas large enough for ball fields and other organized sports.
 - c. Parks shall be easily accessible from rights-of-way or if approved by the Town, from trails.
 - d. Parks should be dispersed throughout the subdivision.
 - e. Sufficient parking shall be provided for anticipated park usage.

(Ord. 435 §1, 1998)

16.07.040 Residential open lands preservation requirements.

Every subdivision shall satisfy the following open land preservation requirements:

1. Amount: The subdivider shall provide for the preservation of at least twenty percent (20%) of the subdivision as open lands, sixty percent (60%) for multi-family housing.
2. Eligible lands:
 - a. All lands within the proposed subdivision and adjacent to the proposed subdivision, as they exist at the time of final plat approval, shall be eligible for preservation as open lands under this subsection, provided, however that land with the following characteristics shall not be eligible:
 - i. Lands from which the subsurface mineral interests have been severed and are available for location and mining of minerals, and the mineral interests are not conveyed or appropriately restricted concurrently with the surface interests.
 - ii. Lands that are presently subdivided or platted under a recorded plat, unless such subdivision approval or plat is revoked or rescinded and such revocation or rescission is placed on public record.
 - b. Blank.
 - c. As an alternative means of satisfying the required open lands adjacent to the Town or within a subdivision as provided by this subsection, a subdivider may offer to the Town a substitute parcel for open lands preservation of equivalent size that is located outside of the proposed subdivision or not adjacent to the Town; provided, however, that nothing herein shall obligate the Town to accept such substitute dedication. The Town shall not accept any substitute dedication located more than three miles from the Town boundary existing at the time of final subdivision approval, including lands annexed for the subdivision.
3. Methods of open lands preservation: Any or all of the following methods of open lands preservation, singly or in combination, may be employed to preserve open lands pursuant to the requirements of this section 16.07.040; subject to approval by the Town Board of Trustees:
 - a. Conveyance of a fee interest in the land to the Town
 - b. Conveyance of a fee interest in the land to an organization which is a “qualified conservation organization” as defined by the Internal Revenue Code, having in present force and effect an exemption from taxation under section 501(c)(3) of the Internal Revenue Code, or any successor section on the same subject.
 - c. Conveyance of a conservation easement on the land conveyed either to the Town or to an organization described above.
 - d. Imposition and recordation of a restrictive covenant running with the land, which is enforceable by the Town, and which precludes its development for all uses in perpetuity, provided that non-residential agricultural, park land, or wildlife or wetland conservation or enhancement uses may be permitted. The allowance for non-residential agricultural uses

shall not be interpreted to allow feed on open lands in the vicinity of the Town.

- e. Any other conveyance or restriction of the title to the land which has the effect of restricting, in perpetuity, the development of the land for other than non-residential agricultural, park land, or wildlife or wetland conservation purposes which includes adequate enforcement provisions to ensure such preservation as approved by the Town.
4. Procedure for preservation: Prior to the Town's acceptance of any lands as eligible and as qualifying for preservation under this subsection, the subdivider shall provide to the Town evidence of title to and encumbrances upon such lands, accompanied by the proposed means of conveyance or title restriction.
 5. Priority open lands: The following areas are encouraged to be preserved as undeveloped open lands to avoid development in inappropriate areas and to preserve sensitive and unique lands:
 - a. Unique and/or fragile areas, including but not limited to geologic formations, forested areas, critical view sheds, ridgelines, bodies of water, streams and rivers (including one hundred (100) year floodplains), and wetlands and their one hundred (100) foot buffer as defined in these subdivision regulations and verified by field inspection;
 - b. Steep slopes in excess of thirty (30) percent as measured over a ten (10) foot interval;
 - c. Critical wildlife winter range and significant wildlife habitat as identified in section 16.07.090.6 and by the Colorado Division of Wildlife;
 - d. Historically significant structures and sites, as listed on federal or state lists of historical places, or reasonably determined by the Town; and
 - e. Areas which have historically provided, or are reasonably identified as desirable for, public access to public lands.
 6. Uses of open lands:
 - a. Public open lands shall generally be accessible, subject to restrictions imposed by the Town such as allowing hunting or not.
 - b. Private open lands may be used for private purposes such as agriculture or wildlife habitat. At the option of the owner, access to such lands may be restricted such as to those involved in agricultural or wildlife preservation activities.
 - c. Road rights-of-way crossing open lands shall not be counted as open lands and open lands shall not be occupied by buildings or other structures unless approved by the Town, nor shall they be used as the yards of single family or multifamily dwellings, or for parking areas.
 7. Size of open lands areas:
 - a. The size of each area of open lands which is designed to provide for recreational use as well as preservation shall be of such minimum dimensions as to be functionally usable for those purposes.

- b. Open lands should be large areas that can be easily identified rather than many small pieces that may be difficult to identify.
8. Location of open lands areas: Open lands should be located to link designated open lands or open space areas and conservation easements to other open lands or open spaces, particularly when stream corridors, contiguous wetlands, and/or trails are incorporated within the open lands and open space.
9. Maintenance of open lands:
- a. Any lands identified for use as open lands shall have conservation easements or deed restrictions ensuring that:
 - i. No residential, commercial or industrial buildings will be built on the open lands;
 - ii. The use of the land as open land shall continue in perpetuity; and
 - b. The subdivision improvements agreement shall include the necessary language stating that a stewardship fund, which can be used in the future to resolve boundary disputes or for other appropriate reasons, will be provided for all open lands and subdividers are encouraged to agree in the subdivision improvements agreement to maintain open lands in their natural state, including but not limited to:
 - i. Requirements for removal of litter,
 - ii. Maintenance of natural and artificial water courses as free-flowing and devoid of debris,
 - iii. Allowing adequate space for stream channels to change as they naturally do over time, and
 - iv. The use of the land as open land in perpetuity shall be defended by the grantee of the conservation easement or other appropriate instrument.
- None of the above provisions shall be construed or enforced so as to prevent wetlands or wildlife habitat enhancement.
10. All property held by a governmental entity for public use shall be exempted from the dedication requirements imposed by this subsection.
11. Exemption from open lands requirement: The Town Board of Trustees, in its sole discretion, may by resolution grant an exemption for all or any part of the open lands preservation requirement when:
- a. The subdivider has previously, permanently and irrevocably preserved property within three miles of the Town boundary for open space prior to subdivision,
 - b. The subdivider has donated or otherwise conveyed property to the Town for park use and public access, in excess of any park requirements in these subdivision regulations, or

- c. The subdivider has provided more dedications than required for other purpose(s) or other contributions and the Town Board of Trustees finds it to be in the best interests of the, health, safety and welfare of the Town to waive such requirements.

16.07.050 Street standards.

1. Street Patterns:

- a. Roads shall be designed and located with regard for natural features such as topography, creeks, and wooded areas to enhance the natural features of the property and protect the existing natural resources.
- b. The street pattern in the subdivision shall conform with the most appropriate development of adjoining areas.
- c. Streets and avenues shall be continued at equal width and in similar alignment as existing or proposed streets and avenues in the Town or adjacent platted subdivisions unless the evaluation required in the preliminary plan submittals indicates that road improvements are needed to existing streets based on the impacts expected due to the proposed subdivision, in which case, both the proposed subdivision streets and the existing streets may be required by the Town to be enlarged to accommodate the identified impacts.
- d. Intersections shall approximate right angles and have a minimum tangent length of fifty (50) feet on each leg. Intersections of more than two streets at the same location shall be avoided.
- e. Where a street will eventually extend beyond the development, but is temporarily dead-ended, the Town may require an interim cul-de-sac to facilitate emergency vehicular movements.
- f. Proposed streets shall be extended to the boundary lines of the land to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Planning Commission, such extension is not necessary for connection of the subdivision with the existing street layout or the probable future layout of adjacent tracts.
- g. Dead-end streets, with or without cul-de-sacs, except for those temporary cul-de-sacs discussed above, shall be prohibited unless the Planning Commission determines that the topography or other physical constrain demands such a street pattern.
- h. Permanent dead-end streets shall be provided with cul-de-sacs.
- i. Right-turn lanes and left-turn lanes shall be required at the intersection of arterial streets or the intersection of an arterial street with a subdivision street if traffic conditions indicate they are needed. Sufficient right-of-way shall be dedicated to accommodate such lanes when they are needed. Generally such lanes are required when the trips per hour exceed the trips described in the Draft of Proposed Revisions to the 1985 Colorado State Highway Access Code, Colorado Code of Regulations, 2 CCR 601-1, including proposed revisions through July, 1995.

Acceleration and deceleration lanes shall comply with the applicable provisions of the Draft of Proposed Revisions to the 1985 Colorado State Highway Access Code, Colorado Code of Regulations, 2 CCR 601-1, including revisions through July, 1995. Applicable provisions

include:

- 1.54 Definitions,
- 1.7 References, and
- 4.1, *et al.* Design Standards and Specifications.

Due to the high amounts of snow and the limited sight distances throughout the winter at intersections, the lowest traffic volumes that trigger the need for extra lanes shall be used. Criteria 4.7(1)(d) shall receive special attention when subdivisions are reviewed in Kremmling. It states: “When public safety so requires, due to site specific conditions such as limited site distance, a turn lane may be required even though the criteria in subsection 4.7 are not met.”

- j. The creation of new arterial streets to serve a subdivision or within a subdivision is strongly discouraged.
 - k. Subdivisions shall be designed so as to provide two or more accesses for all parts of each subdivision.
 - l. Private streets serving new subdivisions are prohibited, within the Town.
 - m. No subdivision shall be approved unless all tracts and parcels have access to a public street. “Access to a public street” shall mean that all tracts and parcels within the subdivision:
 - i. Have frontage on an existing public street built to the standards required by this subsection; or
 - ii. Have frontage on a public street shown on a subdivision plat that meets all requirements of this subsection and which is offered for dedication, and is eligible for acceptance by the Town in accordance with this subsection.
 - n. Based on the findings of the traffic analysis requirements in section 16.06.050.15.i. and its evaluation by the Planning Commission, the subdivider shall propose mitigating measures to make substantial reductions in the adverse effects of the subdivision.
2. Street conformance with Fire District standards: All streets shall conform to the Kremmling Fire Protection District guidelines, or with the following guidelines:
- a. Grades of streets should conform as closely as possible to the original topography but in no case shall road grades exceed seven (7) percent, and combinations of steep grades and curves should be avoided;
 - b. Turn-arounds shall not be allowed;
 - c. Streets ending at cul-de-sacs shall not exceed four hundred (400) feet in length from the nearest intersection to the far side of the cul-de-sac;
 - d. The paved portion of a cul-de-sac shall not exceed sixty (60) feet in diameter if a fire hydrant is provided half-way between the nearest intersection and the end of the cul-de-sac, and if the right-of-way for the cul-de-sac is at least one hundred (100) feet in diameter;

- e. Private circulation drives, except those serving a condominium or apartment complex on one tract or parcel, shall not be used.
3. Relationship to existing Town bearings: Streets, avenues and alleys shall be laid out to be parallel with existing streets, avenues and alleys unless unusual planning considerations suggest otherwise.
4. Street construction: Streets shall be constructed by the subdivider to conform to the standards described in State Department of Highways, Division of Highways, State of Colorado, Standard Specifications for Road and Bridge Construction, 1991, (or the most recent version). When there are conflicts between the standards set forth herein and State Department of Highways, Division of Highways, State of Colorado, Standard Specifications for Road and Bridge Construction, 1991, the standards set forth herein shall prevail.
5. Street layout:
 - a. Street layout shall be designed to conform to the standards described in Residential Streets, Second Edition, published by the American Society of Civil Engineers, National Association of Home Builders and the Urban Land Institute in 1990. Copies are available in the Planning Department. When there are conflicts between the standards set forth herein and Residential Streets, the standards set forth herein shall prevail.
6. Safety: Streets shall be designed to avoid or minimize congestion, automotive or pedestrian safety problems, and other traffic hazards.
7. Coordination with transit: Street location and design shall be coordinated with the Town's and area's overall transportation systems.
8. Access across rivers: Vehicular or pedestrian access across rivers or creeks must be approved by the Town, shall conform to other governmental requirements regarding bridges across water ways, and shall be carefully limited.
9. Physically challenged access: Where sidewalks are proposed, a ramp for wheelchair and other physically challenged users shall be installed at the end of each block.
10. Alleys: Alleys, open at both ends, may be required in all blocks and shall be surfaced with road base at least 4 inches thick. Alleys shall be a minimum of twenty (20) feet wide.
11. Street signs, names and traffic control: Street and avenue names shall be shown on the final plat. The subdivider shall pay for and erect signs at each intersection of streets and avenues setting forth the names of streets, avenues, roads and highways. Such signs will be consistent in size and design with the existing street and avenue signs throughout the Town and shall utilize reflective materials. No street or avenue names shall be used which duplicate or may be confused with the names of existing streets or roads in the Town. The subdivider shall pay for and erect all traffic control and parking signs necessary to serve the proposed subdivision. The size, design, and materials of signs, shall be approved by the Town Board of Trustees. The Town Board of Trustees may accept recommended names for streets from the subdivider or choose other names it finds more appropriate.

12. Right-of-Way widths: Rights-of-way shall be provided at the following minimum widths:

| <u>Street Type</u> | <u>R.O.W. Width</u> |
|--------------------|---|
| General streets | 60 feet. When, due to topography, hazards or other design constraints, additional road width is necessary to provide for the public safety, then dedication of right-of-way in excess of the minimum standards set forth above shall be required. |

13. Pavement width: Hard surfacing in accordance with Town requirements is required for all streets. The minimum pavement width is thirty-eight (38) feet.

14. Curbs and gutters: Mountable curbs and gutters shall be provided for all streets.

15. Half-street dedications: Half-street dedications shall be prohibited unless they are for the purpose of increasing the width of an inadequate existing right-of-way. No perimeter half- streets shall be permitted in new subdivisions.

16. Curves: Reverse curves on collector and bypass streets shall be joined by a tangent of at least one hundred (100) feet in length.

17. Street parking. Parking on streets will be inside the curbs.

| <u>Sidewalk curb parking</u> | | <u>Parking curb sidewalk</u> |
|------------------------------|----------|------------------------------|
| 4 feet | 38 feet | 4 feet |
| Sidewalk | Pavement | Sidewalk |

18. Transit: Whenever a proposed subdivision embraces any part of an existing or planned street or transit alignment designated on an adopted plan, easements shall be provided to accommodate the plan within the subdivision.

19. Street dedication and acceptance requirements: Prior to and as a condition of the Town's acceptance of any street or other right-of-way for public use, the following conditions shall be satisfied by the dedicator of such street or right-of-way:

- a. All of the above street standards shall be met as applicable;
- b. The property served by the street or right-of-way shall have received land development approval by the Town pursuant to this chapter 16 for the ultimate intended use of the property so served;
- c. The property served by the street or right-of-way to be dedicated shall have received subdivision approval from the Town pursuant to these subdivision regulations;
- d. The street or right-of-way shall have been constructed in accordance with required specifications, and approved by the Town's Engineer.

(Ord. 613 5, 2011)

16.07.060 Standards for trails, walkways and sidewalks.

1. Trail requirements: It is the policy of the Town to require bicycle and pedestrian trails to be

dedicated to the Town as a component of the Town's alternative transportation network and to provide recreational opportunities. Subdivision proposals shall include, as a component of the required public improvements, a pedestrian and bicycle trail system designed to integrate with existing trails within three miles of Town limits, integrate with existing improvements, and provide service appropriate to the character of trails within three miles of the Town limits.

2. Compliance with trails plans: The subdivider shall dedicate to the Town those portions of the trails, if any, which traverses the subdivision, the Town may accept reasonable alternative trail alignments and dedications proposed by the subdivider which will implement the trail plans and policies.
3. Relationship to other land dedication requirements: Land dedicated for a trail shall apply towards the subdividers municipal land dedication requirements under section 16.06.090 Trails shall be dedicated to the Town unless they traverse open lands that will remain in private ownership. In such cases, permanent easements shall be provided for the trails in the name of the Town. Land area for sidewalks adjacent to streets and for internal pedestrian circulation shall not be credited toward the open land requirement.
4. Location requirements: In fulfillment of the trail requirements of section 16.06.090, the subdivider shall dedicate trails to the Town which are reasonably necessary or convenient to the subdivision including the following:
 - a. Trails identified on the Kremmling Trail Plan;
 - b. Trail or walkway systems or links for reasonable access to schools, shopping areas, parks, trails, open land, and other public areas;
 - c. Trails and walkways through open land areas are encouraged to take advantage of the visual qualities of the area and should be designed to be an alternative to vehicular traffic;
 - d. Trails that link residential areas;
 - e. Access to public roads;
 - f. Trails parallel to internal or abutting streams and lake shores; and
 - g. Trails that create unsafe road crossings are to be avoided. Special structures and/or traffic control devices may be required at road crossings for safety.
5. Design requirements - sidewalks, (trails & walkways reserved):
 - a. Separation between vehicular traffic ways and trails is required unless topography or other physical constraints necessitate a trail parallel to and near a traffic way. The minimum distance between vehicular rights-of-way and trails shall be twenty (20) feet.
 - b. The type of construction for sidewalks shall be compatible with the anticipated use.
 - c. Sidewalks shall be a minimum of four (4) feet wide and shall be required in all residential, commercial, and business zone districts on each side of the street.

- d. Improved, hard surfaced trail surfaces shall be a minimum of six (6) feet wide unless terrain necessitates more width for safety purposes then no more than eight feet wide.
- e. Easements for trails shall be dedicated to the Town and shall be at least fifteen (15) feet wide when they are located outside otherwise dedicated public land.
- f. Grades should be kept below five (5) percent wherever possible, and should not exceed ten (10) percent for sections exceeding fifty (50) feet in length. The absolute maximum shall be twelve (12) percent for sections less than fifty (50) feet long, subject to approval of the Planning Commission.
- g. Trails shall avoid all willows and shrubs larger than two feet in diameter and shall avoid or go around all trees with a trunk diameter of six (6) inches or more measured four and one-half feet (4 ½) above the ground. Trails shall avoid rocks larger than four (4) feet in diameter and other natural features. Trails shall go around such vegetation and natural features to create interesting, winding ways. Where necessary, trails shall be built by hand to preserve such vegetation and other natural features.

(Ord. 435 §1, 1998)

16.07.070 Bridge standards.

- 1. Bridges shall be designed by a registered engineer, be constructed to prevent obstruction to a one hundred (100) year flood, and shall be subject to approval by the Town’s Engineer. The required federal and state permits shall be obtained for all bridges prior to construction.
- 2. Vehicular bridges shall be provided with pedestrian facilities including trail walkway/bikeway and handrails.
- 3. Bridges shall include adequate channeling, drainage and wingwalls to protect approach roadway fill.
- 4. Bridges shall be designed so that the river bottom under the bridge does not step down at the bridge, thereby creating unnecessary erosion as the river bottom is eaten by the river trying to even out the step. Bridges shall not unnecessarily constrict flows and thereby create dams or change stream or flood characteristics.

(Ord. 435 §1, 1998)

16.07.080 Hazardous areas standards.

- 1. Development in hazardous areas shall be prohibited unless a subdivider can demonstrate, using an appropriate professional in the field, that the areas proposed for development are not in a hazardous area. If all of the land owned by a person is in a hazardous area, then the density transfers described in section 16.07.230 may be applicable to allow some economic beneficial use of the property in addition to grazing.
- 2. Development in the one hundred (100) year floodplain, as defined by the regulating government body, shall be prohibited except for arterial streets, or trails approved by the Town.
- 3. A twenty (20) foot strip of land measured horizontally from the one hundred (100) year floodplain designation on each side of any stream located within the boundaries of the

subdivision, and of any stream located on land adjacent to the subdivision property, shall be protected in its natural state and shall be available for emergency access during periods of high water flow, with the exception that footpaths, bridges, irrigation structures, flood control and erosion protection devices may be constructed thereon. Underground utilities may be located in such protected areas, provided that there is no practical alternative location for such utilities, the plans are approved by the Planning Commission, and that all construction scars are re-vegetated and the natural flow of water is not constricted.

4. Proposed cut and fill slopes for roads, building excavations, and other earthwork must be based upon evaluations by a qualified soils engineer or engineering geologist.

(Ord. 435 §1, 1998)

16.07.090 Design to be compatible with natural features.

1. Preserve Resource Areas: Subdividers shall preserve resource areas, including the following:
 - a. Existing waterways;
 - b. Wetlands as described in subsection 16.07.090.5.;
 - c. Where practical, mature tree cover (all trees six (6) inches or more in diameter measured four and one-half (4 1/2) feet above the ground);
 - d. Willows and shrubs two (2) feet in diameter or larger;
 - e. Wildlife movement corridors, strutting grounds and other wildlife habitat;
 - f. Rock formations;
 - g. Significant existing views and natural vistas reasonably designated by the Planning Commission across the proposed subdivision from adjacent properties and public areas, and out of the proposed subdivision; and
 - h. Other environmentally sensitive resources identified by the Planning Commission.
2. Design compatible with the natural character of the land subdivisions shall be designed to preserve the natural character of the land. The design of every subdivision shall be compatible with the existing topography, drainage patterns and other natural features of the property. Deep or extensive excavations and fills scar the landscape and shall be avoided. The practice of terracing hillsides in order to provide additional or larger building sites shall not be allowed.
3. Clustering:
 - a. All subdivisions shall be designed so the developed area is limited to a small portion of the site and avoids sensitive areas. Open lands or other open spaces shall be separate from the developed area and shall occupy the remainder of the property or other lands as approved by the Town. Clustered design is best defined by what it is not. It is not dispersed.
 - b. Subdivisions shall be clustered on the flatter, less fragile portions of the property when development is not designed as typical blocks and lots.

- c. Clustered development should be designed to protect the most scenic and less stable portions of the site by avoiding them,
- d. Pockets of visual density, or clustered development, on hillsides which are related to the natural contours of the land are preferable to even dispersal of development.

Note: The density for residential units shall not exceed the maximum density of the zone district. Higher density zones districts for parts of the property may be appropriate for those areas where development is proposed if the sensitive areas described above will not be developed.

- 4. Long term maintenance costs: The design of the subdivision should, wherever reasonably possible, lower all infrastructure maintenance costs and conserve materials, land, and environmental values.
- 5. Wetlands:
 - a. No development, including without limitation, platting of tracts or parcels, streets, sewer lines or other utilities, developed parks or dredging or filling, shall occur within high quality wetlands, lower quality wetlands that could be restored to high quality wetlands, or within a buffer zone of at least one hundred (100) feet from the boundary of any high quality wetlands, or lower quality wetlands that could be restored to high quality wetlands. High quality wetlands include wetlands that were once naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands.
 - b. For purposes of these subdivision regulations, the procedures used to identify a wetland are as described in the 1987 Army Corps of Engineers Wetland Delineation Manual (or the most recent manual version). In addition to the Town standards, no dredging or filling of any wetlands shall occur without the required federal and other permits, and said dredging or filling shall occur in such a manner as to minimize the impacts to the wetlands.
- 6. Wildlife Habitat: Subdivision design shall avoid development in or near significant wildlife habitat.
 - a. Areas of particular concern include:
 - i. Nesting areas for ducks, teal and geese,
 - ii. Blank,
 - iii. Migration corridors, calving grounds and winter range for elk,
 - iv. Migration corridors and fawning areas for deer,
 - v. Streams for trout production,
 - vi. Nesting sites for raptors such as red tailed hawks, eagles, owls and northern goshawks,

- vii. Habitat for boreal toads and other threatened or endangered species,
 - viii. Tiger salamander habitat,
 - ix. Denning sites for fox and black bears,
 - x. Sage grouse staging areas, and
 - xi. Any high quality wetlands.
- b. Buffer zones similar to wetland buffers shall be provided and maintained between wildlife habitat areas and developed areas
 - c. Dogs shall be prohibited within significant wildlife habitat areas and buffer zones.
 - d. Removal of vegetation shall be prohibited within identified wildlife habitat areas and buffer zones.
 - e. Historic access for managing wildlife shall be maintained.
7. **Ridgelines:** The top or roof line of any structures shall not break the plain of the top of the ridgeline.
8. **Soils:** The location of all tracts and parcels, and the construction of all infrastructure improvements shall be based on geotechnical investigations of the soils in the area, and within practicable limits, the stratigraphy and physical properties of the soils underlying the site. The strength of and deformation characteristics of the soil strata shall particularly, be the basis of improvements designs, so that an appropriate soil and foundation relationship is established for the proposed construction, as determined by registered engineers practicing geotechnical engineering and structural engineering in the state of Colorado.

(Ord. 435 §1, 1998)

16.07.100 Solar access standards.

Because subdivision layouts can affect the future orientation of buildings and consequently determine the natural access to sunlight, and because solar access is important, subdivision plans shall comply with the following solar access issues.

- 1. **Avenue orientation:** Avenues should be oriented in the east-west direction, and tracts or parcels on a north-south axis, to minimize the risk of solar shading.
- 2. **Setbacks:** Where appropriate, the subdivider shall establish setbacks, easements or building envelopes which protect solar access to adjacent tracts or parcels.
- 3. **Buffers:** Space may be required to create a buffer between zone districts which permit buildings with different heights, to protect a small building from the shadow cast by an adjacent higher building of another zone district.
- 4. **Solar easements:** Protection of both existing solar easements and dedication of new solar easements may be required by the Town. Solar easements shall be described and enforced as

provided by Title 32.5 of Title 68, Colorado Revised Statutes, as amended.

(Ord. 435 §1, 1998)

16.07.110 Drainage standards.

1. Drainage study: The drainage study shall be reviewed and approved by the Town's Engineer to ensure that the information presented is accurate and uses standard engineering practices to solve expected drainage issues. The drainage plan shall describe how the expected maximum water flows from any twenty-five (25) year flood event, and any one hundred (100) year flood event, shall be directed away from all buildings and other developed areas.
2. Adjacent lands: The drainage system shall be designed to accommodate not only runoff from the subdivision, but also, the historic runoff for those areas adjacent to and upstream from the proposed subdivision, as well as its effects on lands downstream.
3. Storm drainage separate from sanitary sewage storm drainage systems shall be separate and independent of any sanitary sewer system.
4. Historic runoff and drainage design: The drainage system shall be designed and constructed by the subdivider so that only historic runoff, not including historic irrigation, shall be released from the site. Drainage flows in excess of this amount shall be retained, detained in on-site detention ponds to maintain the historical rate of runoff for the one hundred (100) year flood from the undeveloped site, or handled in a storm sewer system which takes into account the low winter temperatures of the area, drainage shall not be directed to any other property without the written permission, in perpetuity, of the owner(s) of said other property. All capital costs associated with handling runoff generated by a subdivision shall be paid by the subdivider and all ongoing maintenance and operations costs of structures on public property or easements shall be paid by the Town unless it is agreed that the subdivider or his or her successors will maintain the drainage facilities.
5. Drainage facilities: The subdivider shall provide culverts, drainage pipes, storm sewers, bridges and other flood and runoff control structures which shall be sized as required by the drainage study to protect all roadways and adjacent lots, tracts or parcels, and property that is not a part of the subdivision. Particular attention will be given to items which will prevent over-topping, erosion or silting up of drainage facilities. Culverts and pipes shall be galvanized, corrugated steel or the approved equivalent. The minimum accepted culvert size shall be eighteen (18) inches in diameter. Open channels shall be a trapezoidal in shape with a minimum side slope of two (2) horizontal to one (1) vertical. They shall be sized to retain the anticipated flows at the design velocities.
6. Drainage easements: Where a subdivision is traversed by a watercourse, drainage way, channel, stream, water supply ditch or canal (existing drainage way), there shall be provided in the subdivision a storm water or drainage easement or right-of-way conforming substantially to the lines of such existing drainage way. Such easements and existing drainage ways shall be of a width and constructed in a manner adequate to convey expected flows in a one hundred (100) year flood. They shall also exclude improvements that would interfere with runoff drainage easements shall be shown on the final plat and shall provide a minimum access area on each side of the top of bank of fifteen (15) feet for maintenance and access during flood events and shall be in accordance with the approved drainage study and drainage plan.

7. Floodplain designated as open space: Where a subdivision is located adjacent to a gulch, creek, or river, the subdivider should designate all land located within the one hundred (100) year floodplain of the river, creek or gulch as open space, open land, or non-buildable zone. In any event, no structures shall be placed within the one hundred (100) year floodplain unless approved by the Town. One hundred (100) year flood plain land designated for open space may apply toward the subdivider's open land requirements under section 16.07.040.
8. Pollution from drainage: The subdivision shall not result in reasonably avoidable degradation of waterways, other water bodies or wetlands. This standard shall apply to both the construction activities and the ultimate use of the land. Features such as settling ponds, filtration galleries, and sand traps, and the maintenance of these items, shall be addressed and resolved prior to preliminary plan approval.
9. Curbs: Concrete curbs shall be required on both sides of streets and shall be designed to direct water so it will flow into the overall storm drainage system for the subdivision and the Town. Concrete curbs shall be located between the pavement edge of the street and sidewalk where sidewalks are proposed. Drainage shall be handled by surface drainage between curbs for a lineal distance of no more than nine hundred (900) feet or until the estimated flows exceed the capacity of the curbs, whichever is shorter. When the curbs can no longer handle the estimated flows, other drainage structures shall be used to direct water.
10. Dips and swales: Concrete dips, pans or swales are required at street intersections to direct water flowing along curbs through intersections.
11. Phased development drainage plans: A general drainage plan for the entire subdivision shall be presented as part of the first phase of a phased development, and appropriate development stages for the drainage system for each phase shall be indicated and constructed.

(Ord. 435 §1, 1998)

16.07.120 Water supply.

1. Connection required: Each building site within a subdivision shall be connected to the Town's public water supply facilities. Water supply service lines shall be required to serve all tracts or parcels.
2. Design: The internal water distribution system of each subdivision shall be designed and sized hydraulically to meet the initial and future demands of the subdivision and shall be approved by the Town's Water Department or the Town's Engineer.
3. Upgrading the existing system: In the event the Town's Engineer determines that the existing water treatment plant, water distribution lines, or water storage facilities are insufficient to meet the then current demand, including demand of lots, tracts or parcels paying availability of service charges, and the demand of the proposed subdivision, then the subdivider shall be required to provide and pay for the upgrades necessary to supply the proposed subdivision with adequate water for lawn irrigation and for firefighting capabilities, and adequate potable water for household and any approved business or commercial uses, as required as defined in paragraphs 6 and 8 below.
4. Oversizing for extensions: Oversizing for likely extensions may be required to serve future phases. Mains should be sized to serve the total number of established and anticipated units in

the subdivision. Oversizing may also be required to serve adjacent properties.

5. Sizing for fire demands: All subdivisions shall be served by the Town's central treated water system. Water distribution systems shall be designed for fire flows as required by the Kremmling Fire Protection District. The system shall be sized hydraulically for maximum day demand plus fire flow demand or for peak hour, demand, whichever is greater.
 - a. Maximum day demand, in gallons per minute, shall be three (3) times average day demand, and peak hour demand shall be assumed to be six (6) times the average day demand, unless calculations indicate otherwise and the design is approved by Town.
 - b. Minimum residual pressures shall be forty (40) pounds per square inch (psi) under peak hour demands and twenty (20) psi if direct flow is used. The actual pressure in the supply system under the conditions specified shall be used in designing the distribution system
6. Materials specifications: The quality and materials specifications for all water systems must be submitted for review and are subject to approval by the Town's Water Department. Proposed specifications should include the following:
 - a. The strength rating for distribution piping and fittings with fire flow demand shall have a minimum safety factor of four times the anticipated internal operating pressure;
 - b. The system is to be designed for a minimum service life of fifty (50) years;
 - c. Water lined shall be buried a minimum of seven (7) feet below the finished ground surface, or as approved by the Town's Water Department, and they shall be insulated under street crossings and driveway crossings to avoid freezing;
 - d. Dead-end mains are to be avoided, but if unavoidable, are to be provided with suitable means for flushing.
7. Average daily demand: Sufficient supply for the average daily demand of a subdivision is based upon three hundred (300) gpd (gallons per day) per residential unit or one hundred (100) gpd per capita, whichever is greater. For business and commercial uses the quantity will be reviewed and established based on the anticipated demand of the uses. Appropriate multipliers may be utilized in calculating this amount. Minimum water for irrigation uses should be supplied from sources other than the central treated water system and quantities will be based on eight hundred sixty (860) cubic feet per day per acre. Required irrigation quantities may be higher if for ball fields in a park or school yard and other areas receiving high usage. If a separate irrigation system will not be used, then the average daily demand should be increased for each unit based on the eight hundred sixty (860) cubic feet per day per acre figure and the proposed tract or parcel sizes.
8. Stubbing water service lines: Water service lines shall be stubbed at least ten (10) feet into each tract or parcel created in the subdivision by the subdivider prior to acceptance of improvements by the Town. Such stubbed service lines shall be provided with curb shut off valves at the end of the service line.
9. Fire hydrants: Fire hydrants shall be required in all subdivisions and will be located in conformity with the Uniform Fire Code. No fire hydrant shall be acceptable unless the outlet threads correspond with the hose threads used by the Kremmling Fire Protection District. Each fire

hydrant shall allow a minimum flow of one thousand five hundred (1,500) gpm. Fire hydrants may be required to allow larger flows depending upon the proposed nearby land uses.

10. Conformance with Fire District standards: All water supply infrastructures shall conform to the Kremmling Fire Protection District Guidelines and Standards adopted March 15, 1989, as amended, with the exception that subdivisions without central (treated) water supply shall not be allowed.
11. Unless otherwise provided by these subdivision regulations, all design and construction shall be performed in a manner which, at a minimum, meets the commonly accepted engineering and construction standards for the Kremmling area and other communities located in mountainous settings with similar conditions and climate.

(Ord. 435 §1, 1998)

16.07.130 Sewage disposal.

1. Connection Required: Each subdivision shall be connected to the public sanitary sewage disposal facilities of the Sanitation District. Sanitary sewage disposal service lines shall be required to serve all tracts or parcels.
2. Design: Collection systems shall be designed to meet the demands of the proposed subdivision and shall be approved by the Sanitation District's engineer.
3. Upgrading the existing system: In the event the Sanitation District's engineer determines that the existing waste water treatment plant or sanitary mains are insufficient to serve the then current demand, the future demand of tracts or parcels paying availability of service charges, and the subdivision, the subdivider shall be required to provide and pay for the waste water treatment plant and sanitary main upgrades necessary to meet the sewage treatment, sewage collection, and sludge treatment demands of the proposed subdivision.
4. Oversizing for extensions: Oversizing for likely extensions may be required to serve future phases. Mains should be sized to serve the total number of established and anticipated units in the subdivision. Oversizing may also be required to serve adjacent properties.
5. Building permit limits: Building permits may be reasonably limited by Sanitation District according to the capacity of the system. Any such limitation shall be included in the subdivision improvement agreement.
6. Infiltration: The constructed system shall not permit infiltration in excess of two hundred (200) gallons per inch of diameter per mile of pipe per day, unless otherwise specified by the Sanitation District.
7. Stubbing sanitary sewer service lines: Sanitary sewer service lines shall be stubbed at least ten (10) feet into each tract or parcel with cleanouts provided at the end of the service line stubs by the subdivider prior to acceptance of improvements by the Sanitation District.

(Ord. 435 §1, 1998)

16.07.140 Irrigation systems.

Blank.

(Ord. 435 §1, 1998)

16.07.150 Lighting.

1. Street lighting: Street lighting shall be provided only in locations as required by the Town for safety purposes and poles and fixtures shall be compatible with those used in Town as determined by the Town.
2. Light pollution: All exterior lighting or illumination shall be designed, located, placed, and shielded to be architecturally and aesthetically in keeping with the buildings and surroundings, should create minimum visual pollution or impact on any other lot, tract or parcel in the Town, and shall not directly illuminate adjoining, lots, tracts or parcels, or rights-of-way, including alleys.
3. Parking area lighting: All parking areas intended for night use which are illuminated shall be illuminated by lighting that is directed inward and downward, onto the site and away from adjoining property, so as to avoid illumination or glare upon adjoining properties or rights of way including alleys.
4. Types of lights: Only incandescent lights shall be used unless other types of lighting are approved by the Town.

(Ord. 435 §1, 1998)

16.07.160 Utility standards.

1. Utilities shall be placed underground: The subdivider shall install service lines for local utilities underground, including those for electricity, natural gas, telephone, cable television and any other proposed utilities. If such lines are placed in a street or alley, they shall be in place prior to surfacing.
2. Location of above ground utilities: Transformers, switching boxes, terminal compressor stations, pedestals or other similar facilities necessarily appurtenant and normally placed above ground, may be placed within the subdivision easements or rights-of-way provided for the particular facilities in accordance with the approved utility service plan, but shall not be placed in any street or alley right-of-way to avoid conflicts with snow plowing. The location of each utility line shall be indicated on the utility plan.
3. Oversizing for extensions: Oversizing for likely extensions may be required to serve future phases. Utility lines, water and sewer lines, storm drainage facilities, and irrigation ditches shall be sized to serve the total number of established and anticipated units in the subdivision and shall extend the full length of the subdivision.
4. Easement location and design: Public utility easements shall be placed so as to be free from conflicting legal encumbrances, to avoid unnecessary removal of trees or excessive excavations, to be reasonably free from physical obstructions, and shall be dedicated at the time of final plat approval. Utility easements shall be at least twenty (20) feet wide, however easements on two adjoining tracts or parcels shall be a total of twenty (20) feet wide. In all cases, the subdivider shall work with the utility companies to provide reasonably sized easements a minimum of twenty (20) feet wide in appropriate locations.

5. Soil compaction: Soil compaction shall be required for fill of all utility lines, including service connections, within any public right-of-way. The compaction shall be ninety-five (95) percent standard proctor.
6. Blank

(Ord. 435 §1, 1998)

16.07.170 Agricultural impacts.

1. Fences: When a subdivision adjoins property classified by the Grand County Assessor as agricultural and when the adjoining property is used for grazing, the subdivider shall construct a four-foot wire or wood fence along the subdivision boundary line adjacent to the agricultural use which shall be capable of preventing livestock from passing through. After acceptance of the public improvements, it shall be the responsibility of the abutting property owner within the subdivision to properly maintain the fence unless the agricultural user agrees in writing to do so. Existing historical easements utilized to gain access to fences for maintenance or operational purposes shall be preserved, or replaced with alternate easements suitable for such purposes.
2. Irrigation ditch access: Where actively utilized irrigation ditches cross or adjoin the subdivision, adequate provisions shall be made to insure that water can be conveyed across the subdivision, including maintenance thereof ditch rights-of-way shall not be interfered with unless in compliance with C.R.S. 37-86-104 *et. seq.*, as amended, and a maintenance easement of at least twenty (20) feet from the edge of each ditch bank shall be preserved unless the subdivider can prove conclusively that the ditch has been legally abandoned. Existing historical easements utilized to gain access to ditches and head gates for maintenance or operational purposes shall be preserved, or replaced with alternate easements suitable for such purposes.
 - a. Conflicts between recorded and unrecorded irrigation ditch rights-of-way or easements shall be resolved by the subdivider and the ditch owner prior to final plat approval.
3. Irrigation ditch lining: Reasonable conditions may be imposed by the Town to protect subdivision residents from hazards caused by the existence of irrigation ditches in the subdivision and to ensure that irrigation water arrives at the irrigator's point of use. Reasonable protection may include lining and culverting of ditches.
4. Irrigation ditches not for drainage: Unless approved by the Town and the ditch owner, ditches shall not be used as drainage facilities.
5. Stock drive routes: Recorded easements for stock drive routes crossing the subdivision shall be maintained, or an alternate location may be established upon the prior written approval of the holder of the easement. The Town encourages subdividers to work with agriculture stock drivers to provide stock drives for moving stock where legal stock drive routes do not exist but where historic or traditional routes do exist.
6. Roads and boundary fences: Roads will be located a sufficient distance back from subdivision boundaries, fences so that normal maintenance of such roads, including snow removal, will not damage the fences.

(Ord. 435 §1, 1998)

16.07.180 Recreational facilities.

1. Recreational Facilities to be included in Subdivision Improvements Agreement

Any recreational facility proposed for dedication to the Town, or other appropriate entity, shall be included in the subdivision improvements agreement.

(Ord. 435 §1, 1998)

16.07.190 Survey monuments.

All surveying data shall be tied to primary control points, the location and description of which shall be recorded with the Grand County Clerk and Recorder. Prior to acceptance of any public improvements by the Town, permanent survey monuments shall be set at all subdivision boundary corners, at points within the subdivision where there is a change of direction, at all tract or parcel corners and at the intersections of street and avenue centerlines. The monuments shall not be more than one thousand three hundred twenty (1,320) feet apart. All monuments and surveys shall be set and performed in accordance with Titles 50 and 51 of Title 68, Colorado Revised Statutes.

(Ord. 435 §1, 1998)

16.07.200 Landscaping.

1. Landscaping is subject to regulation: Because landscaping on public and private lands is essential to the aesthetic values, ecology and soil conservation of the Town, it is hereby declared to be a benefit to the general public. As such, landscaping shall be subject to regulation, be fully described in the subdivision improvements agreement and the landscape plan, and ensured by a guarantee of completion as provided in these subdivision regulations. The “Town of Kremmling Comprehensive Plan” shall guide the subdivider on all topics that are not discussed in this section.
2. Preserve existing trees and shrubs: The landscaping plan shall demonstrate that a reasonable effort has been made to preserve all existing healthy trees and shrubs.
3. Appropriate vegetation: The landscaping plan shall provide for planting of indigenous vegetation or such other vegetation as may be recommended by the Natural Resource Conservation Service. Cut and fill slopes shall be no steeper than a ratio of two (2) horizontal to one (1) vertical. All exposed ground surfaces shall be re-vegetated. Native grasses are strongly encouraged for open space areas and disturbed area reclamation.
4. Obstruction of signs and fire hydrants: No vegetation shall be located so as to interfere with the ability of motor vehicle operators to have unobstructed vision of traffic signs, street signs and intersecting streets. Fire hydrants shall not be obstructed by landscaping.
5. Protect vegetation: Installation of vegetation protection devices shall be required during any construction.
6. Landscaping guaranteed for two years: All landscaping planted in accordance with this subsection shall live for at least two (2) years after the applicable landscaping subdivision improvements have been made in compliance with section 16.06.080.8.a. It shall be properly maintained by the owner of the tract or parcel on which it is planted. Landscaping that dies within the two-year period shall be replaced and shall be required to live for at least two years from the time it is replanted.

7. Debris, junk and equipment: No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried, left or deposited on any tract or parcel, street, or other area within the subdivision for more than ninety (90) days during construction of subdivision improvements. All such materials shall be kept within the subdivision. No construction equipment which is not being regularly used on the subdivision shall be left outside on the property or within the Town for more than thirty (30) days.

(Ord. 435 §1, 1998)

16.07.210 Soil erosion control required.

Permanent erosion and sediment control measures shall be installed and maintained during all stages of construction. At a minimum, soil erosion control shall meet the following criteria:

1. All erosion control features shall be consistent with the drainage standards set forth in section 16.07.110.
2. Erosion control features such as berms and ditches shall be implemented prior to initiating construction activities for the subdivision, and dust suppression techniques shall be implemented during construction.
3. Cut and fill shall be kept to a minimum.
4. Graded or filled slopes shall be kept to a 3:1 slope or less and all slopes in excess of thirty (30) percent shall be left undisturbed. Slope stabilization techniques shall be implemented where soil conditions warrant and approved by the Town's Engineer.
5. Berms and ditches shall be constructed around graded areas to contain sediment-laden runoff.
6. Grading and earth moving activities shall be carried out in July or late fall to avoid runoff periods, and the rainy season when large amounts of sediment could be transported off the site by the runoff
7. All natural vegetation shrubbery in excess of two feet in diameter and all trees with a trunk diameter of six (6) inches or more measured four and one-half (4 1/2) feet above the ground, shall be preserved unless the Town allows individual plants to be removed.
8. Impervious surfaces shall be as small as possible and runoff for impervious surfaces shall be collected in ditches or trenches in conformance with the drainage plan.
9. Runoff velocity shall not exceed pre-subdivision levels.
10. Degradation of water quality by the subdivision in waterways, water bodies and wetlands shall not occur.

(Ord. 435 §1, 1998)

16.07.220 Parking requirements.

1. Sufficient off street parking shall be required, planned for, and constructed to eliminate the need for routine on street parking. At a minimum, each residential unit shall have two, 10' x 20' paved

or concrete, dedicated, off street parking spaces.

16.07.230 Other provisions.

1. The Town may require as a condition of subdivision approval, the construction of improvements not otherwise required by these subdivision regulations where such improvements are reasonably necessary to protect the health, safety, or welfare of the Town and are made necessary as a result of the impacts created by the proposed subdivision. The Town shall provide written documentation for such necessity and the obligation on the part of the subdivider for any required improvement shall be roughly proportional to the impacts of the proposed subdivision.
2. The final plat shall evidence conformance with any applicable requirements of the federal Americans with Disabilities Act (ADA) and any similar state requirements for accessibility of the subdivision and improvements to handicapped persons. Such conformance may be made a condition of subdivision approval; provided, however, that subdivision approval shall not constitute the Town's certification that the subdivision meets any applicable federal or state requirement. Conformance with such requirements shall remain an obligation of the subdivider and the property owner. Where an applicable requirement of these subdivision regulations is more stringent than a federal or state requirement, the more stringent requirement shall control.
3. The Town Board of Trustees may approve the transfer of all or any portion of residential density allowable under the zoning classification for any reasonably zoned property which is denied all reasonable economic use by operation of these subdivision regulations. Such transfer of density shall be permitted from such residentially zoned property to another identified residentially zoned property only. The Town Board of Trustees may impose reasonable conditions upon such transfer such as, but not limited to, the land owner's preservation of the property from which the density was transferred as open lands in accordance with section 16-7.D.3. Any transfer shall be approved by ordinance in the same manner as applicable to the rezoning of property and shall be evidenced by either a recorded written agreement between the property owner and the Town or the recording of the ordinance approving the transfer of residential density.
4. In the event that the subdivider disagrees with any dedication of land required by any provision of these subdivision regulations, the subdivider may provide to the Town studies and documentation identifying, through generally accepted techniques and models, the projected impact of the proposed subdivision upon the pertinent public facilities and amenities. Such study and documentation shall also include the subdivider's recommendation regarding a land dedication for fee which is proportional to the projected impact of the subdivision. Such evidence shall be considered by the Town in its final determination regarding land dedication requirements for the subdivision.

(Ord. 435 §1, 1998)

16.08 - Enforcement and Penalty

Sections

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16.08.010 Enforcement.

It shall be the duty of the Town Board of Trustees, or its designee, to enforce the provisions of these subdivision regulations. No final plat of a subdivision shall be approved by the Town, nor shall any subdivision improvements agreement be approved by the Town, unless it conforms to the provisions of these regulations.

16.08.020 Violation - Penalty.

1. **Violation:** It is unlawful for any person, firm, corporation or other entity to violate any of the provisions of these subdivision regulations or to transfer, sell, lease or agree to sell or lease, any lot tract, parcel, site, separate interest (including a leasehold interest), condominium interest, time-share estate, or any other interest within a subdivision or re-subdivision within the Town which is subject to review and approval under these subdivision regulations unless and until the provisions of these subdivision regulations have been waived by the Planning Director for a condominiumization or creation of townhouses, or such subdivision or re-subdivision has been approved in writing by the Town and the final plat thereof recorded in the office of the Grand County Clerk and Recorder, and any improvements described in the subdivision improvements agreement and in the final plan have been constructed and preliminarily accepted by the Town.
2. **Penalty:** Any person, firm, corporation or entity who violates any provision of any section of this title, or fails to comply with any of its requirements, or who knowingly provides false information for the Town to use as the basis for its decision when considering the proposed subdivision, commits an offense, and upon conviction thereof, shall be punished as provided in Kremmling Municipal Code section 1.16.010, and be required to pay any expenses and costs incurred by the Town to successfully prosecute the violation, including reasonable attorneys' fees. Each day that a violation continues shall be a separate offense. (Ord. 535 §54, 2008)
3. **Actions:** The use of any land, building or structure; which activity or use is continued, operated or maintained contrary to any provision of these subdivision regulations shall be unlawful. Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such remedies may include without limitation, refusal to issue building permits, suspension of all building permits in the subdivision, and refusal to issue certificates of occupancy in the subdivision.
4. **Remedies:** The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.
5. **Attorney's Fees:** Any person who is found to be in violation of these subdivision regulations shall, in addition to any other penalties or remedies, pay the Town its reasonable attorneys' fees to ensure compliance with the subdivision regulations.

(Ord. 435 §1, 1998)

16.09 - Appeals

Sections

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16.09.010 Appeals of Planning Director or Planning Commission decisions.

1. Perfecting the appeal: Any decision by the Planning Director or Planning Commission may be appealed by an aggrieved person to the Town Board within fourteen (14) days of the decision, provided that a written and signed request for such appeal is filed by the aggrieved party with the Town Clerk during said time period. This notice requirement is jurisdictional. The Town Board may also call a decision by the Planning Director or the Planning Commission up for review by causing the Town Clerk to provide written notice to the Planning Director or Planning Commission, and the subdivider.
2. Appeal hearing: The Town Board shall hear the appeal or call-up after giving at least five (5) days written notice to the Planning Director or Planning Commission and subdivider within twenty (20) days of the receipt by the Town Clerk or subdivider, as the case may be, of notice of appeal or call-up. The Town Board shall take evidence, make written findings of fact and render a written decision thereon. If necessary, the appeal hearing may be continued for good cause for a reasonable time period. The Town Board's decision shall be in writing and provided to the parties within five (5) after the decision is made.
3. Appeals decisions:
 - a. The Town Board may uphold or reverse the appealed decision, or remand it to the Planning Director or Planning Commission for further review and consideration. If new information including, but not limited to, substantial changes in the design or other aspects of a proposal is presented to the Town Board during the appeal that has not been reviewed by the Planning Director or Planning Commission, and in the opinion of the Town Board this new information has a substantial impact on the proposal, the Town Board shall remand the proposal along with the new information to the Planning Director or Planning Commission, as the case may be, for review and decision.
 - b. If a decision is remanded, the Planning Commission may place conditions on the approval of the appealed decision so that it meets the intent of these subdivision regulations, the existing or proposed underlying zone district(s) and the Town's Comprehensive Plan.

(Ord. 435 §1, 1998)

16.09.020 Appeals of Town Board of Trustees decisions.

1. Administrative remedies provision: Where any subdivider believes that any provision or application of these subdivision regulations violates a provision of any federal or state statute other than Rule 106, C.R.C.P., or are otherwise unlawful, such person shall request in writing a hearing before the Town Board of Trustees for the purpose of obtaining an administrative review by the Town Board of Trustees of such claim and the evidence to support such claim. The Town Board of Trustees shall hear the claim within fifteen (15) days following the Town's receipt of the request. Within five (5) days following the conclusions of such hearing, the Town Board of Trustees shall send or deliver to the aggrieved party a written finding regarding the claim which may include either a finding that the claim is denied or a finding that the Town Board of Trustees

concur with all or any part of the claim and setting a time and date for the Town Board of Trustees' review of and possible amendment or repeal of the provision. Failure of the Town Board of Trustees to either set a hearing or reach a finding within the time required shall be deemed a denial of the claim. A request for such administrative proceeding and administrative remedy is a condition precedent to the filing of a complaint with a state or federal court challenging the subdivision regulations; provided, however, that nothing herein shall be deemed to apply to a claim brought pursuant to Rule 106, C.R.C.P.

2. Perfecting the appeal: All appeals of Town Board of Trustees decisions shall be made by any aggrieved person as provided by Colorado law provided that the appealing party has provided a written and signed notice of intent to appeal the decision to the Town Clerk within thirty (30) days after the decision is made. This notice requirement is jurisdictional.
3. Effect of decision: A decision by the courts to uphold a decision of the Town Board to deny a proposal shall result in closure of the file and shall void any previous Town approvals if no re-application for the appropriate step in the application process is received by the Planning Director within six (6) months of the final trial or appellate court order, decree, judgment, or mandate.
4. Decisions Which May Be Appealed: For purposes of judicial review of these subdivision regulations or any decision made by the Town Board of Trustees pursuant to these regulations, no "final decision" under Rule 106(b) of the Colorado Rules of Civil Procedure shall be deemed to have been made until a written decision on a specific application for subdivision has been rendered by the Town Board of Trustees, as the case may be.

(Ord. 435 §1, 1998)

16.10 - Forms

Sections

16.10.010 Kremmling Subdivision Regulations - Form 187
 16.10.020 Kremmling Subdivision Regulations - Form 288
 16.10.030 Required wording on final plat.88
 16.10.040 Generic Subdivision Improvements Agreement - Attachment A.91

16.10.010 Kremmling Subdivision Regulations - Form 1

Application

Subdivider's Name: _____

Address: _____

Telephone Number: _____

Property Owner Name: _____

Address: _____

Property Owner Name: _____

Address: _____

Property Owner Name: _____

Address: _____

Property Owner Name: _____

Address: _____

Legal Description of the Property:

Legal Description of the Proposed Subdivision:

This is an application for ___ Sketch Plan, ___ Preliminary Plan, ___ Final Plan.

Signature of subdivider _____ Date: _____

Signature of owner(s) _____ Date: _____

Signature of owner(s) _____ Date: _____

Signature of owner(s) _____ Date: _____

(Ord. 435 §1, 1998)

16.10.020 Kremmling Subdivision Regulations - Form 2

The utility location plan shall include statements of approval signed by an appropriate representative of each utility provider for the electric, gas, telecommunications and telephone companies, and such other utilities as are appropriate

The statements shall be worded substantially as follows:

I hereby certify that:

1. I have been authorized by my company or district to review and approve the attached utility location for:
2. Applicant
3. I have reviewed said utility location plan.
4. The facilities and improvements shown on the utility location plan are acceptable to and serviceable by my company or district.
5. I do not anticipate any conflicts with other utilities based on the location of utilities as proposed on the utility plan.
6. Adequate service capability exists for the pending development utilizing the utility location plan, which is qualified as follows:
7. The utility location plan conforms with the recommendations of the Town’s Comprehensive Plan, the requirements other applicable ordinances, and any hazard and resource reports issued as part of the subject subdivision permitting process.

Signature: _____
 Title: _____
 Company/District: _____
 Date: _____

(Ord. 435 §1, 1998)

16.10.030 Required wording on final plat.

Wording of the following required statements shall be used on the final plat:

1. Heading: The heading of the final plat shall include the words “Final plat of “the complete name of the subdivision,” and the land “Sections, Township, Range, Principal Meridian, Town of Kremmling, Grand County, Colorado” and the area of the subdivision.
2. Dedication: Know all people by these presents: That (printed name of owner), being the owner(s) of the land described as follows: (insert legal description of the land being subdivided and include acreage of area to two decimal places), has caused said land to be laid out, surveyed, subdivided and platted the same under the name of (name of subdivision, in upper case letters) Subdivision, as a part of the Town of Kremmling, County of Grand, State of Colorado, and that said Owner does hereby dedicate and set apart real property as shown and labeled on the accompanying plat as follows:

by me and under my supervision and that both are accurate to the best of my knowledge. Steel pins and/or brass cap monuments were set as required at all boundary corners.

Dated this _____ day of _____, _____ (year)
(Signature) _____ (SEAL)
Colorado registration number: _____

5. Title Company Certificate:

_____ Title Company does hereby certify that it has examined the title to all lands as shown hereon and title to such lands is in the dedicator free and clear of all liens, taxes, and encumbrances, except as follows:

Dated this _____ day of _____, _____ (year).

Agent

6. Planning Commission Approval:

The Planning Commission of the Town of Kremmling, Colorado does hereby authorize and approve the final plan and final plat for the above subdivision at a meeting of the Planning Commission held on _____ day of _____, _____ (year).

7. Approval by Town Board of Trustees:

This written plat of (names of subdivision in upper case letters) is approved for filing this _____ day of _____, _____ (year).

The dedication of the public ways and public lands including parks and municipal lands shown hereon are accepted by the Town of Kremmling, Colorado, subject to the condition that the Town shall undertake the maintenance of said public ways and public lands only after construction of the public ways and public lands has been satisfactorily completed to the Town's specifications by the subdivider, and a resolution of the Kremmling Board accepting the same has been adopted and placed of record.

Town of Kremmling
By: _____
Mayor

ATTEST:

By: _____
Clerk

(Seal)

Approved: _____
Planning Director

8. Grand County Clerk and Recorder's Acceptance (to be placed in the lower right-hand of the cover sheet):

This plat was accepted for filing in the office of the Clerk and Recorder of Grand County, Colorado, on this ____ day of _____, _____ (date).

Reception number _____ Time _____ Date _____

County Clerk

9. Recordation of Protective Covenants (if applicable):

Protective Covenants for the subdivision are recorded in:

Book _____, Page _____

(Ord. 435 §1, 1998)

16.10.040 Generic Subdivision Improvements Agreement - Attachment A.

SUBDIVISION IMPROVEMENTS AGREEMENT
BETWEEN
THE TOWN OF KREMMLING
AND
(NAME OF SUBDIVIDER)

PERTAINING TO:

NAME OF SUBDIVISION
TOWN OF KREMMLING
COUNTY OF GRAND,
STATE OF COLORADO

SUBDIVISION IMPROVEMENTS AGREEMENT

This Subdivision Improvements Agreement (“Agreement”) is made and entered into by and between the TOWN OF KREMMLING, a Colorado municipal corporation (“Town”) and _____ (“Subdivider”). This Agreement shall be effective following execution by the Subdivider and immediately upon approval by the Town Board of Trustees of the Town of Kremmling as evidenced by the signature of the Town’s Mayor or Mayor Pro Tem on the date indicated below.

1. **Recitals:** The parties agree that each of the following statements is true and is a material part of this Agreement:
 - A. Subdivider represents that it is the sole owner of the real property described in the attached Exhibit A (“Property”), and has obtained approval from the Town to subdivide said property for a new subdivision to be known as _____ Subdivision, Phase _____, Filing No. _____, (“Subdivision”).
 - B. Pursuant to the Town’s Subdivision Regulations (Title 16 of the 1987 Kremmling Municipal Code), the final plat of the Subdivision cannot be recorded until the Subdivider has entered

into an agreement with the Town concerning the construction of the public improvements within the Subdivision. A copy of the final plat and the accompanying documents and plans shall be available for inspection at the Town Offices at 200 Eagle Ave., Kremmling, Colorado, during regular business hours. The final plat, as approved by the Town, is incorporated into this Agreement for all purposes including illustration and interpretation of the terms and conditions of this Agreement.

- C. The Town seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements within the Subdivision and thereby limiting the harmful effects of substandard subdivisions, including premature subdivision which leaves property undeveloped and unproductive.
- D. The purpose of this Agreement is to protect the Town from the cost of completing subdivision improvements itself, and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the Subdivision or for the benefit of lot or home buyers in the Subdivision.
- E. As consideration for the approval by the Town of the final plat for the Subdivision, Subdivider agrees to construct certain hereinafter described public improvements within the Subdivision in accordance with, and subject to, the terms, conditions and requirements of this Agreement. The parties hereby acknowledge the sufficiency and adequacy of said consideration.

2. Construction of public improvements: The Subdivider covenants and agrees with the Town to plan, design, engineer and construct, at its sole cost, those public improvements (including required utility services) for the Subdivision as depicted on the attached Exhibit B and as described on the attached Exhibit C (“Improvements”). The Improvements shall be constructed strictly in accordance with the Town-approved plans and specifications for the Subdivision. In addition, the Subdivider shall provide to the Town at no cost to the Town: (a) adequate assurance by a registered engineer that all construction done pursuant to this Agreement has been completed in accordance with the approved plans and specifications for the Subdivision; and (b) “as-built” drawings for all the Improvements before preliminary acceptance by the Town as set forth in Subsection 16.06.080.7.e of the Town’s Subdivision Regulations. Further, Subdivider shall hire one or more inspectors acceptable to the Town’s engineer to provide inspection services to the reasonable satisfaction of the Town’s engineer with respect to the construction of the Improvements to be constructed pursuant to this Agreement.

3. Timetable for construction of public improvements.

1.1 Time of essence: Town and Subdivider mutually agree that time is of the essence and that timely performance by the Subdivider shall be an essential part of this Agreement.

1.2 Construction schedule: Subdivider shall construct the Improvements in strict accordance with the schedule described on the attached Exhibit D. Any failure by the Subdivider to commence or complete the construction of the Improvements in strict compliance with the schedule established in Exhibit D shall constitute a default by Subdivider and shall entitle the Town to proceed in accordance with the provisions of Paragraph 14 of this Agreement. Subdivider shall not cease construction activities for any period of more than 30 consecutive days, except for delays occasioned by winter weather conditions, without the Town’s prior written approval.

1.3 Subdivider’s obligation not contingent: The Subdivider’s obligation to complete the

Improvements shall arise upon the recording of the final plat of the Subdivision, shall be independent of any obligations of the Town contained herein, and shall not be conditioned on the commencement of construction or sale of any lots or improvements within the Subdivision.

- 1.4 Force majeure: If Subdivider is delayed in commencing or completing construction of the Improvements, as required herein, by reasons of strikes or other labor troubles, unavailability of materials, national emergency, any rule, order or regulation of any governmental authority, or other similar cause not within Subdivider's control, and if prompt written notice of said cause of delay shall be given to Town by Subdivider, then the time for Subdivider to commence or complete construction, as the case may be, shall be deemed extended by the period of time during which said cause of delay shall continue.
2. Construction standards: The Improvements shall be constructed in accordance with all applicable laws, ordinances, codes, regulations and standards applicable in the Town.
3. Quality of construction; warranty.
 - 5.1 Quality of Construction: The construction of the improvements shall be done in a good and workmanlike manner.
 - 5.2 Warranty: The Subdivider warrants that the Improvements, each and every one of them, shall remain free from defects for a period of two (2) years from the date that the Town preliminarily accepts the Improvements as provided in Paragraph 10 of this agreement. During such two (2) year period any defect determined to exist with respect to such Improvements shall be repaired or the Improvement replaced, at the Town's option, at the sole cost of the Subdivider. Town shall have no obligation with respect to the Improvements, except for snow plowing, until they have been finally accepted by the Town in accordance with Subparagraph 10. The Subdivider shall maintain, in a reasonable, suitable and proper condition for travel, ingress, and egress, all streets located within the subdivision until such time as the streets are finally accepted for maintenance by the Town.
 - 5.3 Notice of default; cure period: Except as provided in Subparagraph 5.4 with respect to emergency repairs, the Town shall provide notice to the Subdivider if inspection reveals that any improvement is defective for any reason. The Subdivider shall have 30 days from the giving of such notice to cure the defect. Such 30 day time limit may be extended by the Town if Town determines that such defect cannot reasonably be cured within such 30 day period. In the event Subdivider fails to cure the defect within the 30 day period, or any extension thereof granted by the Town, Town may declare a default under this Agreement without further notice. No notice shall be required with respect to emergency repairs except as provided in Subparagraph 5.4.
 - 5.4 Emergency repairs: If at any time it appears that the improvements may be significantly damaged or destroyed as a result of a bona fide emergency, the Town shall have the right, but not the duty, to enter upon the property and perform such repairs and take such other action as may be reasonably required in the Town's judgment to protect and preserve the improvements. Town shall have no duty to inspect the property to identify emergency situations which may arise. Prior to taking any action pursuant to this Subparagraph 5.4, Town shall make a reasonable effort to locate Subdivider and advise it of the existence and nature of the emergency. The reasonableness of Town's efforts to locate Subdivider shall be determined based upon the nature of the emergency and the Town's efforts to locate and notify the Subdivider. If, after reasonable efforts, Subdivider cannot be located, Town shall have the right to enter the property and perform any

needed emergency repairs as herein provided, and, upon demand, Subdivider shall reimburse Town for the costs of such emergency repairs. Failure of Subdivider to pay to the Town the costs of such emergency repairs within 15 days after demand shall constitute a default as provided in Subparagraph 12.H of this Agreement.

6. Compliance with law and building permit:

6.1 Compliance with law: When fulfilling its obligations under this Agreement the Subdivider shall comply with all relevant laws, ordinances, and regulations in effect at the time of final plat approval. The Subdivider shall also be subject to laws, ordinances and regulations that become effective after final plat approval to the extent permitted by applicable Colorado law.

6.2 Compliance with building permit: When fulfilling its obligations under this agreement the subdivider shall strictly comply with the terms, conditions, limitations and requirements of the building permit which has been issued for the construction of the improvements by the Town.

7. Transfer of title to improvements.

7.1 Dedication on plat: The subdivider shall dedicate such of the improvements as may be requested by the Town, by appropriate language on the face of the final plat of the subdivision. Such dedication shall be made free and clear of all liens, encumbrances and restrictions, except for the permitted exceptions shown on the attached Exhibit E which are the same or fewer than those identified in the statement of ownership and encumbrances provided pursuant to section 16.06.050.3 of the Subdivision Regulations, and which, in the sole discretion of the Town, do not defeat, limit, or impede the Town's ability to use the dedicated property as intended.

7.2 Conveyance of improvements other than by dedication on plat: As to any of the improvements which have not previously been dedicated on the final plat of the subdivision, such improvements shall be conveyed to the Town, or other appropriate entity, by general warranty deed (if real estate) or by bill of sale with full warranty of title (if personal property), free and clear of all liens, encumbrances and restrictions (except for permitted exceptions shown on Exhibit E), upon the determination of the Town's Engineer that such improvements have been satisfactorily completed and that acceptance of such improvements by the Town is proper in accordance with the provisions of paragraph 10. Conveyance of such improvements shall be made by an instrument acceptable as to form and substance by the Town Attorney.

8. Performance guarantee: The estimated cost of constructing the improvements, as determined by a licensed engineer selected by subdivider, with the Town's approval is \$_____. (See the attached Exhibit C). Accordingly, subdivider has posted the following with the Town's approval as a guarantee of the performance of its obligations hereunder, including its obligation with respect to the two year warranty period provided for in subparagraph 5.2 ("Performance Guarantee"):

() A cash bond in the amount of \$ _____.

() An irrevocable Letter of Credit issued by a qualified Colorado lending institution acceptable to the Town in the amount of \$_____, such letter of credit shall be substantially in the form provided on the attached Exhibit F.

- () Other: Agreement To Provide Alternative Security For Subdivision Improvements, a copy of which is attached as Exhibit G.

Such Performance Guarantee shall remain in effect and shall be renewed by the Subdivider as necessary until released by the Town in accordance with the provisions of Paragraph 9 of this Agreement. The Town shall use the Performance Guarantee, or any funds realized from the Performance Guarantee, for the purposes of completing the Improvements, correcting defects in or associated therewith, including actual legal and engineering expenses reasonably incurred by the Town.

9. Release of performance guarantee:
- 9.1 When released: The Subdivider's Performance Guarantee described in Paragraph 8 shall be released and returned to the Subdivider, without interest thereon, only at such time as the Town determines, in its sole discretion, that all of the Improvements have been properly constructed or installed, and preliminarily accepts them in accordance with Subsection 16.06.080.7 of the Subdivision Regulations, and the two-year warranty period provided for in Subparagraph 5.2 has expired and the Improvements are finally accepted. The Town may, in its sole discretion, and upon the request of the Subdivider made in accordance with Subparagraph 9.2, and subject to the requirements of said Subparagraph, partially release the Performance Guarantee so long as the amount of the Performance Guarantee at all times equals or exceeds 125% of the estimated cost to complete the remaining Improvements. There shall be no reduction in the amount of the Performance Guarantee if the Subdivider is in default under this Agreement.
- 9.2 Request for partial release of performance guarantee: Subdivider may make periodic requests for the partial release of the Performance Guarantee in accordance with the provisions of this Subparagraph 9.2. All such requests shall be in writing to the Town Board of Trustees, shall be for a reduction of at least twenty percent (20%) of the total original Performance Guarantee, or any multiple thereof, and shall be accompanied by an invoice(s) for the portion of the work reflected in the request. No more than one request for a partial release of the Performance Guarantee may be submitted each month. The last twenty percent (20%) of the Performance Guarantee may not be released until all of the Improvements have been preliminarily accepted, and the two year warranty period has run and the Improvements are finally accepted by the Town.
10. Acceptance of improvements: Final acceptance of the Improvements by the Town shall occur as set forth in Subsection 16.06.080.8 of the Subdivision Regulations, and evidenced by written notification from the Town Manager. The Town shall not be required to accept any of the Improvements until the Town's engineer determines that:
- A. The Improvements have been satisfactorily completed in accordance with the approved plans and specifications for the Improvements;
 - B. The Subdivider has delivered to the Town the as-built drawings as required by Paragraph 2; and
 - C. As to any of the Improvements not dedicated on the face of the Plat, the Subdivider has delivered to the Town instruments conveying such Improvements to the Town or other appropriate entity in accordance with Paragraph 7, together with a policy of title insurance demonstrating to the satisfaction of the Town Attorney that the Town or other entity is or will be the owner of such Improvements free and clear of all liens, encumbrances or other

restrictions (except for those permitted title exceptions as shown on Exhibit E).

Preliminary acceptance of the Improvements does not constitute a waiver by the Town of the right to draw on the Performance Guarantee to remedy any defect in or failure of the Improvements that is detected or which occurs after acceptance of the Improvements, nor shall such acceptance operate to release Subdivider from its warranty as herein provided.

11. Payment in lieu of dedications: Developer agrees to make any and all payments in lieu of dedications as set forth in Subtitle 16.06.090.6 of the Subdivision Regulations prior to the Town's execution of its approval on the final plat. The amount of such payment shall be as calculated on the attached Exhibit H.
12. Default: The following conditions, occurrences or actions shall constitute a default by the Subdivider under this Agreement:
 - A. Subdivider's failure to commence construction of the Improvements within the time specified in Exhibit D;
 - B. Subdivider's failure to complete construction of the Improvements within the time specified in Exhibit D;
 - C. Subdivider's failure to construct improvements in accordance with the approved plans and specifications for the Improvements and this Agreement;
 - D. Subdivider's failure to cure defective construction of any Improvement within the applicable cure period as provided in Subparagraph 5.3;
 - E. Subdivider's failure to perform work within the Subdivision for a period of more than 30 consecutive days, except for delays occasioned by winter weather conditions, without the prior written approval of the Town;
 - F. Subdivider's insolvency, the appointment of a receiver for the Subdivider or the filing of a voluntary or involuntary petition in bankruptcy respecting the Subdivider;
 - G. Foreclosure of any lien against the property or a portion of the property or assignment or conveyance of all or part of the property in lieu of foreclosure prior to final acceptance of the Improvements by the Town as provided in Paragraph 10;
 - H. Subdivider's failure to pay to Town upon demand the cost of emergency repairs performed in accordance with Subparagraph 5.4 of this Agreement; or
 - I. Subdivider's sale of any real property or transfer of any interest in real property in all or part of the property prior to preliminary acceptance of the Improvements as provided in Paragraph 10 of this Agreement, in violation of section 16.01.040 of the Subdivision Regulations; or
 - J. Subdivider's violation of any provision of this Agreement, the Town's Subdivision Regulations or Zoning and Land Use Ordinance, or any other ordinances of the Town;

The Town may not declare a default until fifteen (15) days' advance written notice has been

given to the Subdivider; provided, however, that such notice shall not be required with respect to any defective construction for which a thirty (30) days' notice of right to cure has been given in accordance with Subparagraph 5.3 hereof.

13. Measure of damages: The measure of damages for breach of this Agreement by the Subdivider shall be the reasonable costs of obtaining the appropriate performance guarantee funds and completing the Improvements, including design, engineering, legal and inspection costs. For Improvements upon which construction has not begun, the estimated cost of the Improvements as supplied by Subdivider pursuant to Paragraph 8 and shown on Exhibit C shall be prima facie evidence of the cost of completion; however, neither that amount nor the amount of the Performance Guarantee establishes the maximum amount of the Subdivider's liability. The Town shall be entitled to, but not obligated to, complete all unfinished Improvements after at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced.
14. Town's rights upon default: In the event of default the Town shall have the following rights:
 - A. The Town Manager may stop work on the Improvements until a schedule and agreement on compliance for construction has been reached.
 - B. The Town may, but shall not be required to, have the Improvements constructed by such means and in such manner as the Town shall determine, without the necessity of public bidding.
 - C. If the Town elects to have the Improvements constructed pursuant to Subsection 16.06.080.5 of the Subdivision Regulations and this Paragraph 14, it shall have the right to use Subdivider's Performance Guarantee to pay for the construction of such Improvements. If the amount of the Performance Guarantee exceeds the costs of obtaining the performance guarantee funds and constructing the Improvements as set forth in Paragraph 13 hereof, the Town shall deliver any excess funds to the Subdivider. If the Performance Guarantee is insufficient to fully pay such costs, the Subdivider shall, upon demand, pay such deficiency to the Town, together with interest thereon as provided in Paragraph 15.
 - D. The Town may exercise such rights it may have under Colorado law, including, without limitation, the right to bring suit against the Subdivider for injunctive relief, for specific performance of this Agreement, or to recover damages for the breach by the Subdivider of this Agreement.
 - E. The Subdivider hereby grants to the Town, its successors, assigns, agents, contractors and employees, a non-exclusive right and easement to enter the property for the purposes of constructing, maintaining and repairing any Improvements pursuant to the provisions of this Paragraph 14.
 - F. In addition to any remedies provided for herein, or by law or equity, while the Subdivider is in default under this Agreement the Town may refuse to issue building permits for the Subdivision and the Subdivider shall have no right to sell, transfer or otherwise convey lots or homes within the subdivision without the express written approval of the Town.
 - G. The remedies provided for herein are cumulative in nature.

15. Interest: Any sum which is required to be paid by the Subdivider to the Town under this Agreement and which is not timely paid shall accrue interest at eighteen percent (18%) per annum commencing as of the date such sum was due.
16. Maintenance of open lands: As required by section 16.07.040.9 of the Subdivision Regulations:
- A. The subdivider shall cause a stewardship fund in the amount of \$ _____ to be created within six (6) months after the execution of this Agreement, said fund to be segregated from other funds and used for resolving boundary disputes and to otherwise protect the open lands as required by the Subdivision Regulation.
 - B. The Subdivider shall be responsible for and hereby agrees that open lands not dedicated to the Town shall be maintained in their natural state by providing for at least the following:
 - i. Maintenance of natural and artificial water courses as free flowing and devoid of debris;
 - ii. Adequate undeveloped space for stream channels to change as they naturally do over time; and
 - iii. The Subdivider and its successors and assigns, and the grantee of any conservation easement or other appropriate instrument shall defend the preservation and use of the land as open land in perpetuity.
17. Public utilities. The Subdivider shall pay all installation charges for lighting, electricity, natural gas, and cable television required for the Subdivision. All utility lines shall be placed underground in accordance with applicable Town requirements. **[Miss-number - two number 16's in Ord. 435 §1, 1998 - was corrected.]**
18. Relocation of utility lines and easements, and oversizing: The Subdivider shall bear all costs associated with relocating any water, sewer, electrical, gas or cable television lines and providing for respective easements for construction of same within and outside of the Subdivision. If oversizing is required, the cost of such oversizing shall be paid as set forth in the Agreement attached as Exhibit I.
19. Subdivision monumentation: In accordance with applicable Colorado law, and with section 16.07.190 of the Subdivision Regulations, the Subdivider shall establish all subdivision and have the monumentation approved by the Town Planning Director or his or her designee prior to issuance of any certificate of occupancy within the Subdivision.
20. Debris: The Subdivider shall take all steps necessary to limit and prevent the accumulation of, and to remove accumulated mud, sediment, dirt, trash and other debris that is “tracked,” blown or otherwise carried onto public property or off-site onto private property during development. Such obligation shall continue until all Improvements within the subdivision are completed. If the Subdivider fails to remedy any conditions caused or generated by the development of the Subdivision as contemplated by this Paragraph within twenty-four (24) hours of oral or written notice by the Town, the Subdivider agrees to pay upon demand to the Town any costs reasonably incurred by the Town in remedying such conditions. Nothing herein shall obligate the Town to remedy any such conditions, or limit the Town in its selection of the method or manner of remedy
21. Payment of fees and charges: The Subdivider agrees to comply with all the ordinances, rules and

regulations of the Town and shall pay all fees and other charges in a timely manner as required by the Town, including but not limited to building permit fees, inspection fees, and tap fees imposed by Town ordinance, resolution or motion, or by the terms and conditions of this Agreement.

22. Landscaping improvements: The Subdivider shall install at its own expense and at no cost to the Town all landscaping as depicted on the approved landscaping plan. All landscaping that dies within two years after preliminary acceptance of the improvements by the Town shall be replaced by the Subdivider at its sole cost, and shall be required to live for at least two years from the time it is replanted. Subdivider's obligations under this Paragraph shall be guaranteed as part of the improvements, as set forth in Paragraphs 8, 9 and 10 of this Agreement.
23. Erosion control: The Subdivider shall comply with the applicable provisions of section 16-7.U. of the Subdivision Regulations during all stages of Improvement construction.
24. State highway access permit: The Subdivider agrees to obtain approval of any access permit required for Highway 40 or any county road prior to the commencement of construction of the Improvements.
25. Parking: The Subdivider agrees to stripe and sign all parking spaces as may be required in accordance with the requirements of the final plan prior to the issuance of a certificate of occupancy for any structure served by the subject parking area.
26. Blank
27. No third party beneficiaries: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and Subdivider, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on this Agreement. It is the express intention of the Town and Subdivider that any person other than the Town or Subdivider receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
28. Form of payment of all fees and charges: Unless otherwise agreed to by the Town Manager on a case by case basis, the Subdivider's payment of fees and charges specified by this Agreement shall be made in the form of certified funds, cashier's check or wire transferred funds delivered to the Town Manager or his or her designee, or to accounts identified by said person.
29. Review of reference documents: The Subdivider hereby understands and acknowledges that the public documents referenced in this Agreement, including but not limited to the Town Code, Zoning and Land Use Ordinance and Subdivision Regulations were prior to the execution of this Agreement, and are presently, available for review and inspection at the Town Offices located at Kremmling, Colorado from 8:00 a.m. through 5:00 p.m., Monday through Friday.
30. Blank
31. Attorney's fees. It is agreed that if any action is brought in a court of law by either party to this Agreement concerning the arbitration, enforcement, interpretation or construction of this Agreement, or any documents provided for herein, the substantially prevailing party either at trial or upon appeal, shall be entitled to reasonable attorney's fees, as well as costs, including expert witness fees, incurred in the prosecution or defense of such action.

32. Indemnification: The Subdivider agrees to indemnify and hold the Town, its officers, employees, agents and insurers harmless from and against all liability, claims, and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the construction of the Improvements or other work performed upon the Subdivision, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by the act, omission, error, professional error, mistake, negligence, intentional act, or other fault of the Subdivider, any subcontractor of the Subdivider, or any officer, employee, representative, or agent of the Subdivider or of any subcontractor of the Subdivider, or which arise out of any worker's compensation claim of any employee of the Subdivider, or of any employee of any subcontractor of the Subdivider. The Subdivider agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims, or demands at the sole expense of the Subdivider. The Subdivider also agrees to bear all other costs and expenses related thereto, including court costs and attorneys' fees, whether or not any such liability, claims or demands alleged are determined to be groundless, false, or fraudulent.
33. No waiver: No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both Town and Subdivider; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by the Subdivider or the acceptance of any Improvements.
34. Vested property rights: This Agreement shall not alter, enlarge, extend or modify any vested right obtained by the Subdivider in connection with the Subdivision. Subdivider hereby waives its rights to any claims against the Town under Colorado vested property rights statutory or common laws if the Town suspends work or withdraws its approval because of false or inaccurate information provided by the Subdivider.
35. Recordation: This Agreement and the Subdivision final plat shall be recorded by the Town in the office of the Clerk and Recorder of Grand County, Colorado, and Subdivider shall pay the Town the costs thereof upon demand. It is the Subdivider's obligation to prepare and submit to the Town the final plat in a form and upon material acceptable for recordation by the Clerk and Recorder.
36. Immunity: Nothing contained in this Agreement shall constitute a waiver of the Town's sovereign immunity under any applicable state or federal law.
37. Personal jurisdiction and venue: Personal jurisdiction and venue for any civil action commenced by either party to this Agreement, whether arising out of or relating to the Agreement or the Performance Guarantee, shall be deemed to be proper only if such action is commenced in the District Court of Grand County, Colorado. The Subdivider expressly waives its right to bring such action in or to remove such action to any other court, whether state or federal.
38. Code changes: References in this Agreement to any provision of the Town's Municipal Code or to any Town or other governmental standard are intended to refer to any subsequent amendments and/or revisions to such Code or standard. Such amendments or revisions shall be binding upon Subdivider.

39. Nonassignability: This Agreement may not be assigned by the Subdivider without the prior written consent of the Town.
40. Notice: Any notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered, mailed by certified mail, return receipt requested, or sent by facsimile, addressed as follows:

Town of Kremmling
Attn: Town Manager
P.O. Box 538
Kremmling, CO 80459
(970) 724-3249 Fax No. (970) 724-9409

With A Copy (Which shall not constitute notice to the Town) To:

If to the Subdivider:

Notices mailed in accordance with the above provisions shall be deemed to have been given on the third business day after mailing. Notices personally delivered shall be deemed to have been given upon delivery. Notices sent by facsimile shall be deemed to have been given at the time the transmission is received. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process.

41. Entire agreement: This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement and supersedes any prior agreement or understanding relating to such subject matter.
42. Severability: It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, state or federal, the validity of the remaining portions or provisions hereof shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
43. Modification: This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.
44. Counterparts: This Agreement may be executed simultaneously in two or more copies, each of which shall be considered an original for all purposes and all of which together shall constitute but one and the same instrument.
45. Paragraph headings: Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.
46. Binding effect: This Agreement shall run with the property, and shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, successors, assigns, and legal representatives.
47. Governing law: This Agreement shall be interpreted in accordance with the laws of the State of Colorado.

