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Section 1

General Provisions

- 1.01 Title.** This Ordinance establishes the regulations and standards governing the use and development of land within the Town of Wiggins. Included are provisions for the annexation, subdivision and zoning of land, as well as the administrative procedures governing the submission of application, administrative and public reviews, and appeals. Also included are Town standards for site design, landscaping, parking and public infrastructure.
- 1.02 Short Title.** This Ordinance shall be known and may be cited as the Wiggins Land Development Code. Within this Ordinance the Wiggins Land Development Code shall simply be referred to as “this Ordinance”.
- 1.03 Authority.** This Ordinance is adopted pursuant to the authority contained in the Colorado Revised Statutes (CRS). Authority is granted to municipalities to establish a planning commission and regulate subdivisions (CRS 31-23-202, 214), to enforce building and fire regulations (CRS 31-15-601), to regulate land use through zoning (CRS 31-23-301), to prohibit or regulate nuisances and enforce its major street plan within three miles of its boundaries (CRS 31-15-401-601 and CRS 31-23-212, 213), as well as to adopt a comprehensive plan and generally plan for and regulate the use of land. Whenever a section of the Colorado Revised Statutes that is referred to in this Ordinance is later amended or superseded, this Ordinance is deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.
- 1.04 Jurisdiction.** This Ordinance shall apply to all land and buildings within the incorporated limits of the Town of Wiggins, Colorado. The Town's planning jurisdiction includes all land within the Town of Wiggins, and where applicable the land within three miles of the Town's boundaries. For purposes of zoning and subdivision, this Ordinance only applies to lands within the Town's corporate boundaries. A copy of a map showing the boundaries of the Town and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town Offices.
- 1.05 Intent.** It is the intent of this Ordinance to ensure the orderly, efficient and integrated development of the Town in a way that both promotes the health, safety and general welfare of its residents and that is compatible and protective of the natural environment. Specifically, the Town seeks to:
- A.** Implement its adopted Comprehensive Plan;
 - B.** Provide for the adequate and concurrent provision of public infrastructure and

services with the development and use of land in the Town, and in a manner consistent with the public improvements plans of the Town;

- C. Ensure well-planned subdivisions by establishing adequate standards for design, improvements and review;
- D. Avoid traffic congestion and the overcrowding of land while providing adequate light and fresh air to residents;
- E. Prevent loss of life and property from fire, flooding, geologic hazards and other natural or man-made dangers;
- F. Conserve significant environmental features and integrate a high-quality natural environment into the developed portions of the community;
- G. Develop a well-balanced land use pattern that will facilitate the development of an integrated community offering a diversity of housing and employment opportunities;
- H. Establish a Town Center area as the central business district, economic focal point and identity area for the Town.

1.06 Effective Date. The provisions of this Ordinance became effective and were originally adopted on 199__. Development plans approved under previous regulations that received vested property rights through a Site-Specific Development Plan (SSDP) shall be valid for the duration of that vested property right provided that all terms and conditions of the SSDP are complied with. Existing uses that may become nonconforming by adoption of this Ordinance are grand fathered, and under the provisions of this Ordinance.

1.07 Relationship to Existing Ordinances. To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions in the Town's Code, they shall be considered as continuations thereof. It is not the intention of this Ordinance to repeal, but rather to reenact and continue in force the Town's powers and authority in land use regulation. In particular, situations not lawful and conforming under previous ordinances do not become lawful merely by repeal of those ordinances. The adoption of this Ordinance shall not adversely affect the Town's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect. In cases where the provisions of this Ordinance substantially differ from existing ordinances, the provisions of this Ordinance supersede and replace the existing ordinances at the effective date of this Ordinance.

1.08 Relationship to Comprehensive Plan. It is the intention of the Town that this Ordinance implement the planning policies recommended by the Wiggins Planning Commission and adopted by the Board for the Town and its extraterritorial planning area, as reflected in the Comprehensive Plan and other planning documents. While this relationship is reaffirmed, it is the intent of the Town that neither this Ordinance nor

any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

- A. Requirement for Comprehensive Plan Amendment.** Where a development proposal would be in substantial conflict with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to any zoning or subdivision approvals. A substantial conflict will exist when a development proposal would result in changes from the designations of the Land Use Plan maps, Circulation and Transportation Plan map, or Open Space and Parks Plan map in the Comprehensive Plan.
- B. Criteria for Evaluating Amendment Proposals.** Amendments to the Comprehensive Plan resulting from development proposals under this Ordinance shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan.

1.09 Application - No Use or Sale Except in Conformity with Ordinance.

- A.** In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirement for the promotion for the public health, safety, morals, and welfare.
- B.** Where property is affected by the requirements of this Ordinance and by other governmental regulations, those that are more restrictive or which impose the higher standards or requirements shall prevail. No land use or development shall occur or be maintained in the Town in violation of any state or federal regulations.
- C.** Except for situations covered under the " Nonconforming Situations" section of this Ordinance, no person may use, occupy, modify or sell any land or buildings or authorize or permit the use, occupancy, modification or sale of land or buildings under their control except in accordance with all the applicable provisions of this Ordinance.
- D.** For the purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land. In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the structure or land so used unless governed by an approved development plan.

1.10 Fees. Reasonable fees sufficient to cover the costs of administration, legal fees, inspections, publication of notice and similar matters will be charged to applicants for permits, plat approvals, zoning amendments, variances and other administrative relief. The fee schedule will be adopted periodically by the Town Board and is available from the Town office.

1.11 Severability. It is hereby declared to be the intention of the Town that the sections,

paragraphs, sentences, clauses, and phrases of this Ordinance are severable; and that if anyone of these is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the remainder of this Ordinance shall not be affected and will remain valid and in effect.

1.12 Computation of Time. Unless specifically provided, all time references in this Ordinance will be calendar days and be computed by excluding the first day and including the last. Where the last day falls on a Saturday, Sunday or holiday, the next general working day will be used. When the period of time prescribed is less than seven days, the intermediate Saturdays, Sundays and holidays shall be excluded.

1.13 Miscellaneous. As used in this Ordinance, words used in the singular include the plural and words used in the plural include the singular. The words "must," "shall" and "will" are mandatory; "may," "can" and "might" are permissive.

1.14 Basic Definitions and Interpretations. The words and phrases used in this Ordinance shall have the meanings defined below unless otherwise specifically provided or unless clearly required by the context. Questions of definition or working usage shall be interpreted by the Town Administrator based on the context of their usage and the intention of the section of this Ordinance in which they occur.

Abutting Land. A parcel of land which has a common property line with another parcel of land.

Accessory Building. A detached subordinate building, the use of which is incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use.

Accessory Use. A use customarily associated with, but subordinate to the principal use on the same lot.

Adult Amusement, Entertainment, or Business Establishment. An establishment from which minors are absolutely excluded. Such establishments shall include adult bookstores, adult X-rated motion picture theaters, adult cabarets, topless bars or restaurants, massage parlors, and any other uses of the same general character from which minors are absolutely excluded as a prevailing practice or legal requirement.

Alley. A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on the street. Its use is for secondary access to the lot and/or service purposes. An alley shall not be considered to be a street.

Apartment House. A building containing dwelling units used and/or arranged for rental occupancy, or cooperatively owned by its occupants, with a yard and compound, and which has one or more utilities in common. See also: Dwelling, Multi-Family.

Appeal. A request for review by the Board of Adjustment for a variance to this Ordinance.

Applicant. Any individual, partnership, corporation, association, company, or public body, including the federal government, or any political subdivision, agency, corporation or instrumentality of the state applying for a development permit pursuant to this Ordinance.

Architectural Projection. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including, within limitation, cornices, eave belt courses, sills, box or bay windows, fireplaces, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters and fascias, but not including signs.

Automobile, abandoned. Unsheltered old, unused, stripped, junked and other automobiles and trucks not in good and safe operating condition. Notwithstanding the foregoing definition, a motor vehicle stored within a permitted building or structure shall not be considered to be an abandoned automobile.

Automotive, Mobile Home, Trailer, and Farm Implement Sales. The sale or rental of new and used motor vehicles, mobile homes, trailer, or farm implements, but not including repair work except incidental warranty repair of same to be displayed and sold on the premises.

Automotive Wrecking Business. The dismantling or wrecking of used motor vehicles, motor homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Awning. A fixed or movable shelter supported entirely from the exterior wall or a building that can be retracted, folded or collapsed against the face of the supporting building.

Basement House. A dwelling or structure constructed partly or wholly below the grade level of any property.

Basement. Any level of a building where more than one half of the vertical distance between the floor and the ceiling is below the grade of the site.

Bed and Breakfast. A residential building in which rooms are rented on a daily basis to short-term guests. The building typically is similar in character to the surrounding neighborhood and meets all the requirements of the zoning district in which the facility is to be located.

Block. A group of lots existing within well-defined and fixed boundaries within a subdivision and usually being an area surrounded by street or other features such as parks, right-of-ways, or municipal boundary lines.

Board of Adjustment. A special review board operating under the authority of this Ordinance for purposes of hearing and deciding appeals or variances to this Ordinance.

Boarding and Rooming House. A building or portion thereof which is used to provide lodging and may include meals for five or more boarders for compensation; not including members of the occupant's immediate family who might be occupying such building. The word "compensation" can mean money, services, or other things of value.

Buffer Zone. A strip of land established to separate and protect one type of land use from another, to screen from objectionable noise, odor, smoke or visual impact, or to provide for future public improvements or additional open space.

Building Height. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Building. A building is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, and where separated by a fire wall, each such separated portion of such structure shall be deemed a separate building.

Child Care Center. A child care center offers each client less than 24-hour care but may operate for 24 hours in a day including a Large Child Care Center, Small Child Care Center, School-age Child Care Center, Infant Nursery and Toddler Nursery as defined by the Colorado Department of Social Services.

Campground. Any plot of improved property utilized for camping and parking of camping units as herein defined for a period not to exceed 30 days.

Camping Unit or Recreational Vehicle (RV). A wheeled vehicle intended to provide temporary living accommodations. It is either self-propelled, hauled, or towed by a non-commercial vehicle. Included are units commonly referred to as travel-trailers, camper trailers, trailer-coaches, motor homes, and pickup campers. It is not a mobile home.

Cemetery. Land used or intended to be used for the burial of animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

Child Care Home. A child care home is a type of family care home in which children are received for less than 24-hour care. This is a facility receiving two or more children not related to each other or children from more than one family. Children received for care are not related to the caretaker and the care provided by the caretaker is for more than two full consecutive days on a regular weekly basis. A full day is seven or more hours. The number of children in a child care home shall not exceed program requirements established by the Colorado Department of Social Services.

Club. Any membership organization including a lodge, catering exclusively to members and their guests and whose facilities are limited to meeting, eating and

recreational uses, and further, whose activities are not connected principally for monetary gain.

Communication Facility. Consisting primarily of communication towers and/or antennas (including antennas mounted on existing structures), an appurtenant facilities housing electrical equipment for cellular telephone, television, radio and other broadcasting facilities. Does not include places of business where people work on a regular basis (e.g., radio or TV studios).

Corner Lot. A lot situated at the junction of a front street and a side street. A 25 feet set back is required from both streets.

Correctional Facility. Any facility under the supervision of the Colorado Department of Corrections in which persons are or may lawfully be held in custody as a result of conviction of a crime, specifically including any private correctional facility (or private contract prison facility) which contracts with the Colorado Department of Corrections pursuant to Part 2 of Article 1, Title 17, C.R.S., or with the County of Morgan pursuant to C.R.S. 16-11-308.5, as amended, or which holds inmates from states other than Colorado with the express approval of Executive Director of the Colorado Department of Corrections pursuant to C.R.S. 17-1-104.5. Correctional Facility, but no Correctional Facility shall be constructed within three (3) miles of any public or private school, kindergarten, pre-school, or child care facility.

Court. An unoccupied space on a lot other than a yard designated to be partially surrounded by group dwellings.

Curb Cuts. A cut in the curb line for passage of vehicles, not to exceed 12 feet in width for single drive and 20 feet for double drive.

Density. A unit of measurement; the number of dwelling units per acre of land.

Gross Density. The number of dwelling units per acre of total land to be developed.

Net Density. The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

Domestic Livestock. Limited to cattle, horses, swine, sheep and mules.

Driveway. Private access for a vehicle to a single building site or lot not to exceed 12 feet in width for a single drive and 20 feet in width for a double drive.

Dwelling, Multifamily. A building, or portion thereof, designed for or occupied by three (3) or more families living independently of each other, which may include public housing, condominiums, townhouse units, or apartments.

Dwelling, Single-Family. A building consisting of a single dwelling unit only, for the occupancy of one (1) family; separated from other dwelling units by open space, built

or assembled on a foundation on site.

Dwelling, Two-Family. Also called duplex, a detached building designed exclusively for the occupancy of two (2) families living independently of each other; such dwellings may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

Dwelling Unit. One (1) room or a combination of two (2) or more rooms designed for living and sleeping purposes for one (1) person or family, and its household employees, and having a kitchen or kitchenette and a bathroom with a toilet, lavatory and bathtub or shower, all connected to potable water and a sanitary sewer system. Does not include motel, trailer (mobile home), or hotel lodging.

Family. One (1) or more persons occupying a dwelling unit and related by marriage, blood or adoption, or one (1) or more persons occupying a dwelling unit and living together as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, motel, or hotel.

Front Yard. That portion of a yard between the street right-of-way and the building, and between two (2) side lot lines, the depth of which shall be the least distance between the building and the front lot line.

Frontage Street. Street on which the lots of a block, or subdivision thereof, generally front.

Gable. That portion of roof which forms a triangle at the building end and extends from the ridge to the eaves.

Greenhouse, Recreational. A non-business greenhouse of not more than 150 square feet.

Home Occupation. Any use conducted entirely within a dwelling unit or accessory building and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part, which creates no additional traffic, requires no additional parking space, where no persons are employed other than residents in connection with the home occupation. Provided further that no mechanical equipment is installed or used except such that is used for domestic purposes; and that there is no outdoor storage of materials, equipment and/or supplies other than that necessary for domestic purposes. For the purposes of this code, child care homes and child care centers are not considered home occupations. See also Home Occupations Supplement for criteria.

Hotel. A building containing sleeping rooms designed to be rented for short-term occupancy, and which may or may not have eating or drinking facilities as an accessory use.

Junk Yard. A building, structure or parcel of land, or portion thereof, used for the collecting, storage or sale of rags, scrap metal or discarded material; or, for the collecting, dismantling, storage, salvaging, or demolition of vehicles, machinery or other materials and including the sale of whole or parts thereof.

Kennel. Any building, structure or open space devoted wholly or partly to the raising, boarding, or harboring of three (3) or more animals that are over four months old.

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

Lot Area. Total square footage or acreage contained within lot lines.

Lot Depth. The mean distance from the street right-of-way line at the front of the lot to its opposite rear line measured in the general direction of the side lines of the lot. Where a right-of-way is not established or dedicated, it shall be assumed to be 60 feet. Where a major thoroughfare or collector street is designated on the major Thoroughfare Plan, then the lot depth shall be measured from the proposed right-of-way line.

Lot Length. The average distance from the street to the rear of the lot, measured perpendicularly from the street line upon which the lot faces.

Lot Line. A property line bounding a lot, excluding any dedicated street or alley.

Lot of Record. A lot which is part of a subdivision, a plat of which has been legally recorded or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width. Lot width is the width measured along the minimum building setback line.

Lot. Land occupied or to be occupied by a building and its accessory building together with such open spaces as are required under this Ordinance and having its principal frontage on a street or officially approved place.

Major Facility of a Public Utility. Central office buildings of telephone utilities, transmission lines, power plants, electrical utilities substations, and pipelines and storage area of utilities providing natural gas or other petroleum derivatives.

Manufactured Home. A single-family dwelling unit which is partially or entirely manufactured in a factory and is not less than 24 feet in width and 36 feet in length and is no more than seven (7) years old, based on its year of manufacture, when placed on any lot or space within the Town. It is installed on an engineered permanent foundation and has brick, wood, or cosmetically equivalent exterior siding, and a pitched roof. It is certified to the National "Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. 5401, et seq., as amended (which is commonly known as HUD code) and displays the HUD certification label.

Mobile Home. A detached, transportable, one-family dwelling unit intended for year-round occupancy that is at least 12 feet in width and 70 feet in length and 840 square feet or more, and is no more than seven (7) years old, based on its year of manufacture, when placed on any lot or space within the Town. At a minimum, it must contain sleeping accommodations, flush toilet, a tub or shower bath, kitchen facilities with plumbing and electrical connections intended for attachment to outside systems. All mobile homes must be certified to the National "Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. 5401, et seq., or its equivalent, as amended (which is commonly known as the HUD code) and shall display HUD certification label. These homes are made to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit(s) without a permanent foundation and which unit or units are not licensed as a recreational vehicle or park model. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon may be moved from time to time at the convenience of the owner.

Mobile Home Park. Any plot of ground zoned MHPD upon which two or more mobile homes, occupied or intended to be occupied for dwelling, are located for any period of time, regardless of whether or not a charge is made for such accommodations, and whether or not the mobile homes and/or the land are owned by the occupants. A license is required.

Modular Home. A single-family dwelling unit which is partially or entirely manufactured in a factory for installation, or assembly and installation, on the building site and is no more than seven (7) years old, based on its year of manufacture, when placed on any lot or space within the Town. A modular home shall be installed on an engineered permanent foundation and shall be constructed in compliance with all applicable Town-adopted building codes, including but not limited to, the International Building Code and International Residential Code.

Motel. A building or groups of buildings containing individual rooms for sleeping or living, designed and used for temporary rental occupancy and with automobile parking space adjacent to or within the proximity of each rental unit.

Noise Level Reduction (NLR). Construction techniques utilized for the purposes of reducing interior noise levels of structures to acceptable levels as may be determined by the Board of Trustees.

Nonconforming Structure. A building, structure or portion thereof which lawfully existed at the time of the adoption of this Ordinance but which does not conform to the height, yard or area regulations of the zone in which it is located, or which is so designed, erected or altered that it could not reasonably be occupied by a use permitted in the zone in which it is located.

Nonconforming Lot. A "lot" which was lawfully created but which does not conform to the minimum lot size specifications of the zone in which it is located.

Nonconforming Use. A use which lawfully occupied a building or lot at the time of the adoption of the Ordinance or any amendment thereto, and which does not conform with the use regulations of the zone in which the building and/or lot is located.

Parking Area. An open space or an enclosed structure or building used exclusively for the temporary storage of registered automobiles.

Parking Space. That part of a parking area, exclusive of drives, turning areas or loading spaces, devoted to parking for one automobile or vehicle.

Parking, Off Street. Any parking area located wholly within the limits of one or more lots.

Permanent Foundation (Manufactured Housing). Wall construction shall be at a minimum, six inches (6") block or concrete on a concrete footer with proper pylon and pads for blocking. There must be a minimum 42-inch crawl space in all zoning districts except MHPD.

Planning Commission. The Planning Commission appointed by the Board of Trustees of the Town of Wiggins.

Porch. A roofed or unroofed open structure projecting from the front, side or rear wall of a building. For purpose of this Ordinance a porch is considered a part of the principal building and is not permitted to extend into any yard requirements.

Professional Activities. The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, and engineers and similar professions.

Public Building or Use. Any building open to the general use, participation or enjoyment of the public and owned by the Town, County, State or Federal government or by a public utility corporation.

Public Utility. For the purpose of this Ordinance only: an electrical substation, a gas regulator station, a telephone exchange, cable TV satellite facility, a water or sewer pumping station, or a water reservoir.

Rear Yard. That portion of a lot between the rear of a building and a rear lot line or from the alley right-of-way, and between two (2) side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

Recycling Center. A building, structure or parcel of land, or portion thereof, used for the collection, temporary storage and transfer of paper, cardboard, plastic, glass, aluminum and similar materials for the purpose of recycling.

Right-of-Way. A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and

drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

Roadside Stand. A temporary structure designed or used for the display or sale of agricultural and related products.

Rooming or Boarding House. A building, or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation, for three (3) or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

Seat. An individual chair designed to seat one (1) person, or part of a bench designed to seat one (1) person, but measuring at least 18-inches in width.

Service Station, Automobile. A facility to supply motor fuel and oil to motor vehicles, and including a grease rack, minor tire and battery servicing, and sales of motor vehicle accessories.

Setback Line. A line in the back of and parallel to the street right-of-way line and at such horizontal distance from the street right-of-way line as required by the minimum front yard depth in the district in which it is to be located.

Setback. The minimum horizontal distance between the property line and the front line of the building or any projection thereof, excluding steps. Where angled buildings or lots, curved streets, etc., the setback shall be taken as an average distance.

Side Yard. That portion of a lot that extends from the front set back line to the rear set back line between the side set back line and the side lot line, or that portion of a lot that is between a lot line and a setback line, but is not a front or rear yard.

Signs. Any form of publicity, directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trade marks, or trade names, or other pictorial matter, designed to convey such information and displayed by means of panels, posters, paints or other devices erected on an open framework or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports. Flags and banners of any country, state, city, or non-profit organization shall not be included.

Story. That portion of a building included between the surface of a floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

Street. A public thoroughfare 60 feet or more in width and not less than 40 feet between curbs.

Structural Alteration. Any addition to, or subtraction of parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

Structure. Anything constructed or made, the use of which requires permanent location on the ground, or attached to something having more or less permanent location on the ground, except utility poles, flag poles, or walls and fences less than four feet (4') high. The word "structure" shall include the word "building."

Subdivision. Division of a lot, tract or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development. It includes resubdivision and, when appropriate to the context, relates to the process of resubdividing or to the land or territory resubdivided.

Town. For purposes of this Ordinance, shall mean the Town of Wiggins, State of Colorado.

Town Administrator. The Town Administrator or other duly authorized staff personnel of the Town of Wiggins empowered to enforce the requirements of this Ordinance.

Trailer Court. Any plot of ground upon which two (2) or more occupied trailer homes are located. Also known as a mobile home park.

Trailer Home. A mobile home as defined by this Ordinance.

Trucking Terminal. Any lot, structure or premises used for the parking or storage of capital equipment such as trucks, trailers, or other similar equipment over three-fourths (3/4) ton capacity.

Use. The purpose for which any land, structure or building is designed, maintained, or occupied.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such relaxation will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

Yard. An open space unoccupied and unobstructed from the ground upward, which is on the same lot with a building, except as otherwise provided herein; this excludes street and alley right-of-ways.

Zoning Administrator. The Town Administrator of Wiggins, Colorado or an authorized representative.

1.15 Zoning Administrator - Duties. This Ordinance shall be administered and enforced

by the Town Administrator, who shall be appointed by the Board of Trustees. He or his deputy shall have the authority to issue building permits, certificates of occupancy, and special review use permits after such permits have been finally approved by the Board of Trustees. He shall have authority to make inspections and to make all decisions necessary for the proper enforcement of this Ordinance. No oversight or dereliction on the part of the Town Administrator shall legalize, authorize, or excuse the violation of any of the provisions of this Ordinance. The Town Administrator or his deputy shall perform all the duties of the Building Inspector.

1.16 Building Permits.

- A.** No building shall be erected, moved (mobile home or manufactured home), remodeled (exterior or interior) or structurally altered and no fence erected, roof replaced, driveways or walkways constructed or altered unless a permit thereof has been issued by the Zoning Administrator, and no permit shall be issued unless the building or structure proposed is in full conformance with this Ordinance.
- B.** All applications for building permits must be accompanied by drawings showing plot plan and location, floor plan, height and size of all proposed buildings, proposed surface drainage, distance from property boundary lines, ADA accessibility when applicable, and the location and dimensions of fences, signs and parking and loading areas.
- C.** A fee for the examination and administration of this permit shall be payable to the Town of Wiggins, such a fee shall include an inspection fee pursuant with Morgan County or such other entity authorized by the Board of Trustees to perform inspections on the Town's behalf or to recover cost incurred by the Town for Inspections. This fee schedule is available at Wiggins Town Hall.
- D.** Any person, firm, building superintendent, building manager, contractor, contractor's superintendent, corporation or other entity who violated any of the provisions of the Section, including but not limited failing to obtain a building permit, shall be deemed guilty of a misdemeanor and of a separate offense for each and every day or portion thereof during which any violation continues, and shall be punished by a fine of not more than \$2,650.
- E.** Without limiting any other remedy provided for herein, whenever the Zoning Administrator finds any work being performed contrary to the provisions of this Section, he or she is authorized to issue a written stop work order to the owner of the property involved, to the owner's agent, or to the person doing the work. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Failure to obey the order shall result in a minimum fine of \$150 per day, per occurrence, with each day the violation continues constituting a separate offense. Payment of a fine does not mitigate the requirement for building permit under this section.

1.17 Certificates of Occupancy.

- A.** No land or building shall hereafter be changed in use, nor shall any new structure, building or land be occupied or used without first having obtained a Certificate of Occupancy from the Zoning Administrator.
- B.** Such certificate shall be issued within five (5) days of the time notification that the building is completed and ready for occupancy.
- C.** Violation of this section is a misdemeanor with a possible fine of up to \$1,000 and 12 months in jail.

1.18 Enforcement and Review.

- A. Complaints Regarding Violations.** Whenever the Administrator receives a written, signed complaint alleging a violation of this Ordinance, a Town official shall investigate the complaint within 10 days, and take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken
- B. Persons Liable.** The owner, tenant, or occupant of any building or land or part thereof as well as any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
- C. Procedures Upon Discovery of Violations.**
 - 1.** If the Administrator finds that any provision of this Ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and suggesting the action necessary to correct it. The first written notice will also contain an invitation to discuss the violation and the Town's concerns, and the opportunity to negotiate a reasonable solution to the violation that meets these concerns. Additional written notices may be sent at the Administrator's discretion, and may order the action necessary to correct the violation.
 - 2.** The final written notice shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the Board of Adjustment. In all cases an agreement or other enforcement action to end the violation shall be reached within 90 days of the violation being recognized by the Town.
 - 3.** Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement

without prior written notice by invoking any of the penalties or remedies authorized below.

D. Penalties and Remedies for Violations.

1. Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special - use or conditional-use permits, shall constitute a misdemeanor, punishable by a fine of up to \$1,000, or a maximum 12 months imprisonment, or both.
2. Any agreement to sell or transfer of lots in a subdivision before the final plat is approved by the Town will constitute a separate violation for each lot sold or agreed to be sold. Each day of violation will constitute a separate offense.
3. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special-use or conditional-use permits, shall also subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 10 days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation and did not take an appeal to the Board of Adjustment within the prescribed time.
4. This Ordinance may also be enforced by any appropriate equitable action.
5. Each day that any violation continues after notification by the Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
6. In addition to any other penalty imposed by this Ordinance for a violation of the provisions of this Ordinance, the Town reserves and maintains the continued right to abate violations of this Ordinance.
7. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

E. Permit Revocation.

1. A zoning, sign, special-use, conditional-use or other permit may be revoked by the Town if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the Town or if the information on which the permit approval was based is found to be

false or inaccurate

2. Before a conditional-use or special-use permit may be revoked, all of the notice, hearing and other requirements of this Ordinance shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
 - a. The burden of presenting evidence sufficient to convince the Town to revoke a permit for any of the reasons set forth in this Ordinance shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
 - b. Revocation of a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the revocation.
3. Before a zoning or sign permit may be revoked, the Administrator shall give the permit recipient 10 day notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.
4. No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special-use or conditional-use permit after such permit has been revoked in accordance with this section.

F. Judicial Review.

1. Every decision of the Town Board granting or denying a conditional-use permit and every final decision of the Board of Adjustment shall be subject to review by the District Court by proceedings in the nature of certiorari under Rule 104, Colorado Rules of Civil Procedure.
2. The petition for the writ of certiorari must be filed with the Clerk of District Court within 30 days after the later of the following occurrences:
 - a. A written copy of the board's decision has been filed in the office of the planning department, and
 - b. A written copy of the board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
3. A copy of the writ of certiorari shall be served upon the Town of Wiggins.