

Town of Pitkin, Colorado  
Zoning Code  
2020

Title: A compilation of regulations entitle “Town of Pitkin, Colorado Zoning Code,” adopted by the Board of Trustees of the Town of Pitkin, Colorado, on the 5th day of October 2020, Ordinance No. 4, Series 2020 which regulations provide for the restriction of height and size of buildings and other structures, size of yard and open spaces, population density, location and use of structures and land for residence, business or other purposes, and prescribing penalties for violation of the regulations contained within the Town of Pitkin, Colorado Zoning Code.

Be it ordained by the Board of Trustees of the Town of Pitkin, Colorado, that:

Section 1. Purpose. The Town of Pitkin, Colorado Zoning Code is designed to promote the health, safety, and general welfare of the inhabitants of the municipality by providing information and instruction for navigating the zoning regulations and building permit processes of the Town.

Section 2. Authority. This Zoning Code is authorized by Section 31-23-301, C.R.S. (2017), *et seq.*, as amended, and hereby is declared to be in accordance with all provisions of said statute.

Section 3. Definitions. For the purpose of this code, certain words and phrases used herein shall be defined as follows:

A. Word Definitions:

**Accessory Building or Structure:** A building or structure on the same parcel as the primary use structure, its use being subordinate to the primary structure. This includes WeatherPORT type fabric tension structures, detached garages, and storage sheds.

**Accessory Use:** A use customarily associated with, or subordinated to, the principal use on the same lot

**Agriculture:** The raising or keeping of horses, cattle, pigs, sheep, goats, llamas, mules, burros or other livestock whether associated with agriculture, commercial, or personal use

**Alley:** Small roadway between main streets, including but not limited to Quartz Lane, Aspen Lane, Alpine Lane, and Sage Lane as indicated on the Town of Pitkin Zoning Map

**Building:** Any structure having a roof supported by columns or walls

**Building Height:** The vertical distance measured from the finished grade to the highest point of the roof. If the grade is not level, take the average of finished grade to the highest point of the roof.

**Building Site:** A parcel or plot of land occupied or designed to be occupied by one or more buildings or structures arranged so as to meet all the requirements of this Code and facing a public street or alley.

**Club:** Any membership organization including a lodge catering to members and their guests, and whose facilities are rendered to meeting, eating and recreational uses, and further, whose activities are not conducted principally for monetary gain

**Conditional Use:** Any use in any zoning district for which the Board of Trustees' approval is necessary and obtainable upon the fulfillment of certain conditions, either expressed in this Code or imposed by the Board of Trustees

**Cricket:** Specialty flashing detail. Crickets are pyramidal forms that divert water and snow around the upside of chimneys and other roof penetrations

**Deck/Patio/Porch:** Any platform, with or without a roof and adjoining to a building.

**Direct Lighting:** Any light source that emanates from the sign or any part of the sign outwards. Outdoor signs with direct lighting are now allowed.

**Dwelling Unit:** A building or portion thereof providing house-keeping facilities for one person or family

**Family:** One or more persons occupying a common household, but not including common households maintained by or in boarding or rooming houses, lodges, clubs, hotels or fraternities

**Fence:** A vertical structure of minimal thickness designed to restrict or prevent movement across a boundary

**Footprint:** Outside dimensions of foundation

**Free-standing Sign:** Any sign that is not attached to a building. Free-standing signs may be affixed to the ground or raised on a supporting structure.

**Garage:** Any building or structure where automobiles, trucks, or vehicles are stored, repaired, painted or equipped

**Gross Floor Area:** The sum of all the roofed over floor area on all levels of a building, measured from its exterior walls, including all accessory buildings on the same lot

**Heavy Equipment:** Earth-moving equipment over 10,000 lbs., including but not limited to tractors, backhoes, graders and front-end loaders, dump trucks, semi-tractors and semi-trailers

**Home Occupation:** Any business use performed on a residential property by the inhabitants thereof, but which is incidental to the residential use

**Hotel:** A building containing sleeping rooms designed to be rented, and which may or may not have eating or drinking facilities as an accessory use

**Indirect lighting:** Any light source external to a sign, intended to illuminate the sign. Indirect lighting shall be designed, installed, and maintained to eliminate or minimize upward directed light so that the light(s) illuminate only the sign and not adjacent structures or property. Such light shall not interfere with the vision of motorists.

**Junkyard:** A building, structure or parcel of land or portion thereof used for the storage, collection or sale of waste paper, rags, scrap metal or other discarded material; or for the collecting, dismantling, storage, salvaging or demolition of vehicles, machinery or other material, and including the sale of the whole or any part thereof

**Lean-to:** Open structural roof attached to a building

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

**Lot:** Typically a 25' wide by 125' deep parcel of land in the Town of Pitkin.

**Lot Area:** The number of square feet included within a lot as measured within the lot boundaries, measured on a horizontal plane upon which the boundaries have been projected.

**Lot Length:** The average distance from the street at the front of the property line to the rear of the lot, measured perpendicularly from the street line upon which the lot faces

**Lot Width:** The average distance between two side lot lines, measured perpendicularly from one of the sides

**Low Density Housing:** Single family dwelling of permanent construction and/or a manufactured home installed as permanent construction. This includes a home, garage and all associated out buildings.

**Manufactured Home:** Defined pursuant to Section 31-23-301(5)(a)(I), C.R.S. (2017) and as may be amended: a single family dwelling which is partially or entirely manufactured in a factory; is not less than twenty-four feet in width and thirty-six feet in length; is installed on an engineered permanent foundation; has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the “National Manufactured Housing Construction and Safety Standards act of 1974”, 42.U.S.C 5401 *et seq.*, as amended.

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

**Non-conforming:** Legally existing at the time of the adoption of this Code but failing to meet all the requirements contained herein

**Outdoor Advertising Device:** A building or structure either independent of or attached to another building or structure, and which is shaped, painted or made in such a way as to advertise a commodity, place or service, or to support a posted, painted or attached advertisement for any commodity, place or service

**Parking Area:** An open space or enclosed structure or building used exclusively for the temporary storage of an automobile or vehicle

**Parking Space:** That part of a parking area, exclusive of drives, turning areas, or loading space devoted to the parking of one automobile or vehicle

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

**Patio:** See “Deck”

**Porch:** See “Deck”

**Primary building:** In the residential district, the primary building is the dwelling. In the business district the primary building is a dwelling or business structure.

**Public Building or Use:** Any building or space 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 or a municipal civic organization

**Set-back:** The shortest distance between any edge of the building or structure and the lot boundary. The roof eaves and/or the water drip line of the roof, are considered the edge of a building or structure. Decks, porches, stairs, and other accessory structures, which do not have roofs, will be measured from their shortest distance to the lot boundary.

**Sign:** Any structure, poster, banner, insignia, billboard, trademark or other device used to indicate directions, advertise, announce or attract attention; except that flags and banners of any country, state, city or non-profit organization shall not be included

**Structural Alteration:** Any addition to or subtraction from parts of a building including columns, beams, girders, foundations, roofs, walls, porches, doors and windows; may also be considered repair or replacement, which requires a building permit

**Structure:** Anything constructed or erected upon and affixed to the ground except utility poles, flag poles, domestic water wells or walls less than four feet high. Walls greater than 4 feet in height are structures.

**Temporary Use:** Any use in any zoning district which is temporary in nature, with duration of time to be determined by the Board of Trustees of the Town of Pitkin.

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

**Wall:** A vertical structure with a solid footing, usually solid and not of minimal width to support its height

**Yard:** The space on the same lot as a building or structure that is unoccupied and open to the sky

**Yard, Front:** That portion of a yard between the front street line and the building and between the two side lots lines, the depth of which shall be the least distance between the front lot line and any part of the building

**Yard, Rear:** That portion of a yard between the rear of a building and the rear lot line, and between the two side lot lines, the depth of which shall be the least distance between the rear lot line and any part of the building

**Yard, Side:** All yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and any part of the building.

Section 4. Description of Districts. Pitkin is divided into two Zoning districts:

A. Residential. Low Density: This district is for single-family dwellings.

B. Business: This district provides for any permitted business uses and multiple-dwelling units located within the Town of Pitkin, Colorado.

Section 5. Zoning Map. The location of the Zoning Districts shall be maintained on a map entitled "Town of Pitkin, Colorado Official Zoning Map." This map, along with any explanatory materials, is a part of this Code. The official zoning map shall be retained by the Town Clerk, with copies issued to the Mayor and the Chairperson of the Board of Zoning Adjustment. Unless otherwise specified on the map, zoning boundaries shall coincide with the centerlines of streets and alleys or with specified lot lines. All amendments to the map made in accordance with this Code shall be noted within fourteen (14) days upon the official zoning map and the above-mentioned copies.

Section 6. Applicability. Except as provided in this Section, or by a variance granted by the Town of Pitkin:

A. No building, structure or land shall be occupied or used and no building or structural part thereof shall be erected, moved or structurally altered unless in conformity with all of the provisions of this Code for the District in which it is located.

B. No yards or lots existing at the time of adoption of this Code shall be reduced below the minimum dimensions (9,000 square feet) of area required by this code.

C. There shall be no Agricultural District within the Town of Pitkin where Agriculture is performed.

Section 7. Principal Permitted Uses. This section enumerates the principal uses which are permitted in each zoning district:

A. Resident, Low Density Residential:

1. Dwellings, single family

2. Community centers and public buildings
  3. Parks and playgrounds
  4. Accessory uses as listed in Section 10 of this Code
- B. Business, Business:
1. Any use permitted in the Resident district
  2. Accessory buildings and uses
  3. Amusement or recreation
  4. Automobile gas stations or garages
  5. Automobile parking lots
  6. Clubs or lodges
  7. Dining or drinking places
  8. Hotels or motels
  9. Laundromats
  10. Offices or clinics
  11. Retail stores or shops
  12. Schools and churches, including seasonal church schools.
  13. Storage units

Section 8. Conditional Uses. The following uses shall be permitted only after written request to the Board of Trustees, and acceptance of written approval made by the Board of Trustees:

- A. Temporary construction facility for a period not to exceed two years.
- B. Public Utilities.
- C. Heavy equipment storage, unless in an enclosed facility so as not to be visible.

Section 9. Temporary Uses. Upon application to the Board of Trustees, a temporary use permit may be issued. Such temporary use permit shall be valid only for the period of time granted by the Board of Trustees. Failure to terminate such temporary use by the specified time shall be punishable as is provided for in this Code.

Section 10. Permitted Accessory Uses. The following uses are permitted in the specified districts provided they are incidental to and on the same premises as a permitted use and meet all other requirements of this Code.

- A. Resident District:
1. Garage for storage of vehicles.
  2. Any accessory buildings, structures or uses required in addition to and in conjunction with any use permitted in the district.
  3. The total of all accessory buildings and/or garages shall be subordinate in size and usage to the dwelling unit. All accessory buildings combined must have a smaller footprint than the main dwelling unit.
  4. Storage of a camper, camper trailer, or motor home, if a dwelling unit has been constructed on the property.
  5. Home Occupation – any business use performed on a residential property by the inhabitants thereof, but which is incidental to the residential use and which does not significantly increase noise, fumes, odor, or traffic

B. Business District: Any building or structure incident to and necessary for the operation of a use permitted in the district.

Section 11. Non-permitted Uses. Regardless of whether the nature of the uses are otherwise permitted by Sections 7, 8, 9 or 10, those uses which produce excessive amounts of smoke, dust, fumes, noise or have other deleterious effects, or which may threaten the quality of water within the town, either flowing or below ground, are prohibited. Further, all Class 1, 2, 3, and 4 Public Nuisances, as put forth in Sections 16-13-303, 16-13-304, 16-13-305, and 16-13-306, C.R.S., are prohibited. Camping by trailer, motor home, or tent is allowed on private property, in compliance with the Camping Ordinance of the Town of Pitkin.

FYI:

Class 1 - <https://law.justia.com/codes/colorado/2016/title-16/code-of-criminal-procedure/article-13/part-3/section-16-13-303/>

Class 2 - <https://law.justia.com/codes/colorado/2016/title-16/code-of-criminal-procedure/article-13/part-3/section-16-13-304/>

Class 3- <https://law.justia.com/codes/colorado/2016/title-16/code-of-criminal-procedure/article-13/part-3/section-16-13-305/>

Class 4 - <https://law.justia.com/codes/colorado/2016/title-16/code-of-criminal-procedure/article-13/part-3/section-16-13-306/>

Section 12. Space Requirements.

A. **Minimum lot area:** The lot area per dwelling unit shall not be less than the following:

1. Residential District: 9,000 square feet
2. Business District: 9,000 square feet

B. **Minimum Building Size:** The following building sizes are the minimum allowable in the specified districts:

1. Residential District: 600 square feet of usable floor space, which has a minimum headroom clearance of 5 feet. This applies to the primary dwelling only and not to accessory buildings.
2. Business District: 600 square feet of usable floor space, which has a minimum headroom clearance of 5 feet. This applies to the primary dwelling only and not to accessory buildings.

C. **Front Yard Set-back:** All buildings and structures shall be set back a minimum of the following distances from the front property lines:

1. Residential District: 10 feet
2. Business District: 0 feet

D. **Side Yard Set-back:** All buildings and structures shall be set back from the side property line a minimum of the following distances.

1. Residential District: 10 feet from the property line when adjoining private property or five (5) feet from the property line when adjoining roads or alleys.
2. Business District: 10 feet from the property line when adjoining private property or five (5) feet from the property line when adjoining roads or alleys.

E. **Rear Yard Set-back:** All buildings and structures shall be set back from the rear lot line a minimum of the following distances:

1. Residential District: 10 feet from the property line when adjoining private property or five (5) feet from the property line when adjoining roads and alleys.
2. Business District: 10 feet from the property line when adjoining private property or five (5) feet from the property line when adjoining roads and alleys.

F. **Fence Set-back:** The setback for new and replacement fences is zero feet, except for the lot boundary adjacent to an alley where a 5-foot setback is required. All fences require a building permit and the minimum permit fee must be paid.

G. All Resident and Business Districts shall have an area and access to park one vehicle on the building property site. This parking is off the street and may be accessed from either a street or alley adjoining the building property lot.

#### Section 13. Maximum Building Structure and Fence Heights.

A. No building shall be built or structurally altered to exceed the following heights in the specified districts:

1. Resident District: 40 feet
2. Business District: 40 feet

B. A fence shall not be such a height that it impedes traffic visibility at an intersection or a driveway.

Section 14. Non-Conformance. Certain uses of land or buildings, sizes of lots, or locations or sizes of structures, may be found to be in existence at the time of passage of this Code, which do not meet the requirements set forth herein. This Code allows the continuation of such uses and structures. Any construction on lots or buildings accepted as non-conforming at the time of this code, must conform in all respects to the requirements of this Code.

A. **Non-conforming lots:** Non-conforming lots may be built upon only with the approval of the Board of Zoning Adjustment.

B. **Area of Lots:** No improved lots that are conforming in size at the time of passage of this Code may be subdivided or reduced in size in such a way that it would become non-conforming in size or cause any building, space, set-back or use to become non-conforming.

C. **Alterations and/or Extensions:** No building or use that is non-conforming as of the effective date of this Code shall be structurally altered or expanded in any way which would increase the degree or area of non-conformance. The following changes or alterations may be made to a non-conforming building:

1. Repairs to a building or structure that are required to make it safe

2. Maintenance and repairs needed to keep the building in good condition
3. Approval from the Zoning Board of Adjustment is required for any structural change which would not increase the degree of non-conformity or change the use to a non-conforming use

**D. Restoration:** Any non-conforming building or structure that is damaged by fire and is determined to be structurally unsound by the Gunnison County Fire Marshal may not be rebuilt without complete conformance with this code.

Any non-conforming building or structure that is damaged by means other than fire ~~will~~ shall be inspected by a professional structural engineer and if determined to be structurally unsound, may not be rebuilt without complete conformance with this code. In cases where structures on parcels of only one or two lots are damaged and found structurally unsound and when adjacent lots are not available for addition to make the building site conforming to this code, the owners may request a variance from this code as defined in Section 18(C). The approval of this variance request is still subject to the review of the Zoning Board of Adjustment.

**E. Previously approved Uses:** Any building or structure that has been officially approved by the Board of Trustees or Board of Zoning Adjustment, or for which a permanent footing or foundation has been constructed prior to passage of this Code may proceed to completion.

Section 15. Signs and Advertising devices. No sign or other advertising device shall be erected, altered, maintained or moved without a minimum fee permit issued by the Board of Zoning Adjustment, except Type A or D (below). Such a sign or devices shall conform to the provisions of this Code. No new permit shall be issued and no sign or advertising device may be erected unless such sign or device conforms to the following schedule of types of use and classification of signs permitted under this section.

**A. Sign types allowed, by District:**

1. Resident, Residential: classifications A and D.
2. Business, Business: classifications A B C and D

**B. Classification Types:**

**1. Type A, Identification Signs:**

- a. Purpose: to identify premises, occupants or services
- b. Size: maximum 3 square feet per sign
- c. Number: one for each street adjacent to the property including alleys
- d. Illumination: none except for identification of house number
- e. Height: below the roof line of the wall on which the sign is affixed
- f. No permit shall be required for an identification sign which otherwise conforms to this section.

**2. Type B - Indoor Business Signs or Devices:**

- a. Indoor signs must be wholly inside a building and on or facing a window, door, or opening so as to be visible from the outside.
- b. Purpose: to announce the name of a business or service and/or to indicate the type of business
- c. Size: maximum 10 square feet per sign



- d. Illumination: any, except that direct and/or flashing illumination is not permitted where such signs would face into any residence or Residentially zoned district lying within 100 feet of the face of the sign

**3. Type C - Outdoor Business Signs or Advertising Devices:**

- a. Purpose: to identify or advertise business activities on the premises
- b. Size: maximum size of 50 square feet
- c. Number: two per premise on each adjacent street
- d. Illumination: indirect illumination only, with no flashing lighting
- e. Height: not to exceed the highest point on the roof line

**4. Type D – Temporary Signs**

- a. Purpose: to announce the sale or leasing of a property, public or private events to be held, builder, architect or tenant of a proposed building, and election campaigns
- b. Size: maximum 15 square feet per sign
- c. Number: one for each facing street frontage, placed so that only one sign faces each street. Election signs are limited to one per candidate.
- d. Illumination: none
- e. Height: maximum of 4 feet above ground level
- f. No permit shall be required for a temporary sign which otherwise conforms to this Section.
- g. Any real estate signs posted at a property must be removed within 7 days of that property's real estate closing date, unless frozen to the ground.
- h. Any temporary event signs must be removed within 48 hours after the event advertised on the sign, unless frozen to the ground.
- i. Political/Campaign signs: shall be removed within seven days after the election date

**C. Non-conforming Signs:** All signs in existence on the effective date of this Code may remain, provided they are maintained in a state of good repair. They may not be replaced, relocated or structurally altered unless they conform to the provisions of this Code. Existing signs that lie within the Town right-of-way or that may impede snow plowing or motorist visibility shall be removed immediately upon request of the Board of Trustees of the Town of Pitkin.

**D. On-site Location:** All signs shall identify or advertise only the business or establishment upon which property the sign is located.

**E. Setbacks:** Signs may be placed up to the property line but free-standing and attached signs shall not project beyond the vertical plane of the property line. Sign placement shall not interfere with snow removal or vision of motorists.

**F. Municipal Signs:** The provisions of this Section 15 shall not apply to signs erected and maintained by the Town of Pitkin on Town of Pitkin right-of-way for municipal purposes such as street name signs, traffic control signs, directional signs, etc.

Section 16. Administration and Enforcement: This Code shall be administered by the Zoning Board of Adjustment. Enforcement recommendations will be made by the Board of Zoning Adjustment to the Board of Trustees of the Town of Pitkin.

Section 17. Building Permits:

A. No building or structure shall be erected, moved, or structurally altered unless all required permits for said work have been issued by the authority having jurisdiction. No permit shall be issued unless the building or structure is in full conformance with this Code or unless a permit of variance has been issued by the Board of Zoning Adjustment.

1. Storage sheds of 120 square feet or smaller, including Weatherport type structures, do not require a permit but must meet setbacks. Limit of one non-permitted storage shed per site. Additional storage sheds require a building permit. The storage shed must be free standing and cannot attach to any structure.

2. All decks and porches require a building permit and are subject to permit fees.

B. All applications for building permits shall be accompanied by an accurate drawing to scale showing plot plan and location, floor plan, heights and size of all buildings or structures, location of proposed buildings, fences and signs. Drawings of a typical wall section, foundation footer, stem wall sections and an elevation drawing of the front, each side and rear of all new structures is also required with the application.

C. The building permit applicant is required to survey and mark all the property lot corners that are shown or referenced in the plot plan prior to submitting the application. These corners shall be marked in a manner that they are visible to the members of the Zoning Board of Adjustment.

D. All applications for building permits must be reviewed by two (2) members of the Board of Zoning Adjustment for conformance to this Code prior to issuance of the building permit.

E. No Residential or Business building permit for new construction shall be issued until a professionally engineered Onsite Wastewater Treatment System (OWTS) and a water supply design have been presented to the Zoning Board of Adjustment. The residence dwelling unit or other building structure must be constructed in compliance with the permitted OWTS. If the OWTS design requires a variance, the variance must be approved by the Town of Pitkin Board of Health prior to any building permit being issued. This section does not apply to accessory structures that do not have water and/or sewage.

F. No permit for exterior addition to, or alteration of, an existing structure or its use, which may affect OWTS usage, shall be issued until the existing OWTS has been inspected by a professional engineer licensed in the State of Colorado. The engineering report must indicate

that the current OWTS is suitable for the building change. If any corrections or expansions to the OWTS are required by the engineer, they must be included in building permit for the building modification.

(Trustees are encouraged to consider a policy controlling use of streets for construction purposes)

G. If a building project cannot be completed within two years, the property owner must provide progress reports to the Board of Zoning Adjustment with an estimated time to complete the construction.

I. Any deviations in square footage from an approved building permit must be approved in writing by the Board of Zoning Adjustment and the subsequent change order must be added to the permit file.

J. Building Permit Fees: A fee for the examination and administration of this permit shall be established by the Board of Trustees. The Permit Fee shall be payable to the Town of Pitkin upon receipt of the application. Permit fees will be listed in the Town of Pitkin Fee Schedule.

K. All water wells drilled within the Town of Pitkin require a permit. A design and location report from a professional engineer licensed in the State of Colorado must accompany the permit application. The permit fee for a well will be listed in the Town of Pitkin Fee Schedule.

**Section 18. Board of Zoning Adjustment.** A Board of Zoning Adjustment is hereby created.

**A. Membership and Organization:**

1. The Board of Zoning Adjustment shall consist of five (5) members. The Town of Pitkin Board of Trustees shall appoint the members of the Board of Zoning Adjustment.
2. The term of appointment shall be for a period of three years, staggered so that one or two members' terms expire each calendar year. The term shall run from May 1<sup>st</sup> through April 30<sup>th</sup> of the following third year.
3. Any seated members of the Board of Zoning Adjustment at the time of the adoption of this code shall remain seated through the end of their respective term.
4. When a vacancy occurs prior to the expiration of the term, said vacancy shall be filled in the same manner as a regular appointment, but the newly appointed member shall serve the unexpired term of the office in which the vacancy occurred.
5. The members of the Board of Zoning Adjustment shall elect members of the Board to serve as chairperson and vice-chairperson for the period of one year. This election shall occur on the first meeting of the year after May 1st.
6. The members of the Board of Zoning Adjustment shall receive no compensation for their services but may be reimbursed for expenses incurred during the performance of official duties as authorized by the Board of Trustees.

7. The Board of Trustees shall have the power to remove any member of the Board of Zoning Adjustment for cause, following an executive session unless a public hearing is requested by the member in question. **Chris – is there a process for this in statute?**  
**No specific process in statute.**

**B. Duties and Powers:**

1. The Board of Zoning Adjustment shall meet at the call of the Zoning Board Chairperson or the Board of Trustees.
2. At the direction of the Chairperson of the Board of Zoning Adjustment, the Town Clerk shall post notice of any meeting of the Board of Zoning Adjustment at least twenty-four (24) hours in advance of such meeting. Notice of Board of Zoning Adjustment meetings shall be posted in accordance with the Town of Pitkin official posting location resolution.
3. The public may attend all meetings of the Board of Zoning Adjustment and may be heard.
4. Minutes shall be kept of all meetings and are the responsibility of the Town Clerk. All meeting minutes will be part of the public record.
5. The Board of Zoning Adjustment is empowered to adopt any rules and regulations which it deems necessary to transact business or to expedite its functions, provided said rules and regulations are consistent with the provisions of this code.
6. The Board of Zoning Adjustment shall have the power to interpret this Code as is necessary to conduct business, so long as the purpose of this Code is not compromised.
7. The Board of Zoning Adjustment shall act in strict accordance with all applicable laws of the municipality, the State of Colorado and its political subdivisions, and the County of Gunnison.

**C. Variances:**

1. The Board of Zoning Adjustment may authorize, in specific cases, such a variance from the terms of this Code where the strict application of any regulation herein would result in peculiar difficulties to or exceptional and extraordinary hardship upon the owner of such property. Such conditions may include:
  - exceptional physical narrowness
  - exceptional physical shallowness
  - shape of a specific piece of property's topography
  - exceptional physical situation to adjoining property
  - condition of adjoining piece of property

A variance from such strict application of this code may be approved so that substantial justice may be done and the public interest secured; provided that such variance will not have the effect of nullifying the purpose of this code.

- a. All variance requests made to the Board of Zoning Adjustment shall be in writing with a separate attachment sheet(s) showing all diagrams and sites necessary for reasonable clarification and understanding. Every request shall indicate what provisions of this Code are involved and what relief from said provisions is being sought. Within fifteen (15) calendar days, of receiving a completed variance application, the Chairperson of the Board of Zoning Adjustment shall convene the Board of Zoning Adjustment for a review of the requested variance. Notification of the Board of Zoning Adjustment decision shall be in writing, with copies to the requestor and the Board of Trustees and filed with the Town of Pitkin Clerk
- b. Notification of variance requests shall be mailed via USPS first class mail, no less than 10 days prior to the meeting at which a variance request will be considered, to adjacent (without respect to alleys and streets) property owner(s) at the address on record with the County of Gunnison. A summary of the variance request shall be included.
- c. In no case shall any variance, from this code be more than a minimum easing of the requirements.
- d. In granting variances, the Zoning Board of Adjustment may require such conditions as will, in its judgment, secure substantially the objectives of the standards and regulations as affected.
- e. At the direction of the Chairperson of the Board of Zoning Adjustment, all decisions made by the Board of Zoning Adjustment shall be conveyed in writing by the Town Clerk to the applicant.
- f. Variance application fees shall be listed in the Town of Pitkin fee schedule.

**D. Appeals:**

1. Board of Zoning Adjustment decisions may be appealed to the Board of Trustees.

**Section 19. Violations**

- A. Alleged Zoning violations should be brought to the attention of the Board of Zoning Adjustment in writing.
- B. Whenever the Zoning Board of Adjustment or its designee determines that there has been a violation of this Code, he shall notify the person responsible for the violation in writing by certified mail with return receipt, and shall order that a written response be made to the Zoning Board of Adjustment within fifteen (15) calendar days. Copies of such notification shall be forwarded to the Board of Trustees. Within 15 days of receipt

of the written response, the Zoning Board and the person responsible for the violation shall develop a plan of correction. If the violation is not corrected within the time specified by the Zoning Board of Adjustment, the matter will be referred to the Board of Trustees.

Section 20. Amendments and Zoning Change Requests.

Amendments, supplements, changes or repeal of this Code, or any part thereof, or to the Official Zoning Map, may be initiated by application of:

1. Board of Trustees
2. Zoning Board of Adjustment
3. Any citizen, group, firm or corporation residing, owning or leasing property in the Town of Pitkin

A. Application for an amendment to this Code shall be made in writing and filed with the Town Clerk.

1. Upon receipt of application Town Clerk will notify Board of Zoning Adjustment and Board of Trustees of proposed request. The Board of Zoning Adjustment shall within forty-five (45) calendar days, convene to review the request and make a timely referral recommendation to the Board of Trustees for final decision. Additional study time and further investigation may be required before the referral can be completed and submitted to Board of Trustees.

Once the referral is presented to the Board of Trustees, the Board of Trustees will set a date for a public hearing. The final decision will be made by the Board of Trustees.

2. Before any approval for change to this Code is enacted, a public hearing shall be held, with fifteen (15) calendar days advance notice of the time and place to be published in a newspaper having general circulation with the town and at the official Town of Pitkin posting location(s).

3. The adoption of any amendment to this Code shall require the favorable vote of a majority of the duly elected members of the Board of Trustees present at the meeting held to consider such amendment, except where there is filed a written protest against such amendment under the provisions of Section 31-23-305, C.R.S. in which case that statute shall govern.

B. Zone change requests and amendments to the official zoning map shall be made in writing and filed with the Town Clerk. The request shall contain the following information and diagrams as a minimum:

1. Description of the land area to be re-zoned, requested new classification and a drawing to scale showing all boundaries of the area involved along with an indication of the existing zoning on all adjacent sides of the area.

2. A statement of justification for the re-zoning, including one or more of the following conditions:

- a. Changing area conditions.

- b. Error in original zoning.
  - c. Conformance to an area master plan, adopted by the Town of Pitkin.
  - d. Suitability of the site to a certain use.
  - e. Optional: A letter from adjacent property owners showing no objection to the change.
3. Description and plot plan of buildings or proposed uses if re-zoning is granted, along with a diagram of land and building uses of adjacent properties without respect to streets and alleys.
  4. Justification for any new business zoning.
  5. Anticipated effects the new zoning will have on adjacent uses and users and the Town of Pitkin.
  6. Upon receipt of request Town Clerk will notify Board of Zoning Adjustment and Board of Trustees of proposed request. Board of Zoning Adjustment shall, within forty-five (45) calendar days, convene to review the request and make a timely referral recommendation to the Board of Trustees for final decision. Additional study time and further investigation may be required before referral can be completed and submitted to Board of Trustees. Once the referral is presented to the Board of Trustees, the Board of Trustees will set a date for a public hearing. The final decision will be made by the Board of Trustees.
  7. Before any approval for change to the Zoning Map is enacted, a public hearing shall be held, with fifteen(15) calendar days advance notice of the time and place to be published in a newspaper having general circulation with the town and at the official Town of Pitkin posting location(s).
- C. All final decisions for changes to Zoning and/or the Official Zoning Map will be made by the Board of Trustees. The final decision will be conveyed by the Town Clerk to the applicant within fifteen (15) calendar days.

Section 21. Repeal of Ordinance No. 5, Series of 2017. Ordinance No. 5, Series of 2017, and any other prior Zoning Ordinances or Zoning Codes, are repealed on the effective date of this Code.

Section 22. Violation and Penalty. Violation of this Code is a misdemeanor. Every person who willfully violates any provision of this Code or fails or neglects to comply with any requirement of this Code is guilty of a misdemeanor, and shall be punished by a fine of not more than Three Hundred Dollars (\$300.00) **Chris – Can ToP classify this as a misdemeanor?**

-No. A county can classify a violation of a zoning resolution as a misdemeanor, but there is no express authority for a municipality to.

- CRS 31-23-308 states:

“In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part 3 or

of any ordinance or other regulation made under authority conferred by this part 3, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.”

I suggest the following language:

Section 22. Violation and Penalty.

- A. **Offense.** Any person who willfully violates any of the provisions of this Code or neglects to comply with any requirement of this Code shall be fined an amount not to exceed Three Hundred (\$300.00) for each offense.
- B. **Actions.** The erection, construction, alteration, enlargement, conversion, moving or maintenance of any building, and the use of any land, building or structure, which activity or use is continued, operated or maintained contrary to any provision of this Code, shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be maintained and instituted by any property owner who is damaged by a violation of this Code.
- C. **Remedies.** The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law

Note: this language is similar to the town of Crested Butte’s language, but their fine is “not to exceed one thousand dollars for each offense,” and also states that “Each day that such violation continues to exist shall be deemed a separate offense.”

Section 23. Complaints. Any person aggrieved by an apparent violation of the provisions of this Code may submit a completed Zoning Complaint Form with the Board of Zoning Adjustment, which shall investigate such complaint within forty-five (45) calendar days and may recommend to the Board of Trustees to take action to have the violation corrected.

Section 24. Interpretation, Conflicts and Validity.

- A. This Code shall be interpreted and applied to the extent required for the proper protection of the public health, general welfare and promotion of safety.
- C. Whenever a conflict exists between these provisions and any other lawfully adopted rules, regulations, resolutions or ordinances, the one which is the most **restrictive, or that imposing the higher standard, shall apply.** Chris – what happens if Board strikes this? Would you recommend keeping or removing?

I recommend keeping. It may never be needed, but it is common in zoning codes to have a “higher standard applies” to conflicts.



- C. If any provision of this Code or the application thereof is held invalid, such invalidity shall not affect the remaining provisions or application of this Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be separable.

*Section 25. Effective Date. This Code shall take effect and be in force 30 days after publication of the adopting ordinance, provided it has been approved by the Board of Trustees of the Town of Pitkin, Colorado.*

*Attestation: This is a true representation of the Town of Pitkin, Colorado Zoning Code adopted by Ordinance No. XX, Series 2020 on the XX<sup>th</sup> day of XX, 2020 on second reading by the Town of Pitkin, Colorado Board of Trustees.*

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*Town Clerk*

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Appendix A  
Town of Pitkin Zoning District Map

To Be Provided