

# Article 1

## COMPREHENSIVE PLAN PROCEDURES

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### **7.1.101: DEFINITIONS:**

The following terms, as used in this article, shall have the following meanings:

**COMPREHENSIVE PLAN:** Statements in words, maps, illustrations or other media of communication setting forth assumptions, objectives, definitions, policies and recommendations to guide public and private development of land within the jurisdiction of the City and consideration of other issues which enhance community character and improve the quality of life of its citizens.

**COMPREHENSIVE PLAN TASK FORCE:** A group comprised of City Council representatives and representatives from a broad range of community organizations that reviews the existing Comprehensive Plan and makes recommendations for change.

**LAND DEVELOPMENT:** Any construction or activity that changes the basic character or use of land on which the construction or activity occurs and that requires City review and approval under the City's land development regulations. (Ord. 91-30; Ord. 01-42; Ord. 19-3)

### **7.1.102: LEGISLATIVE DECLARATION:**

The City Council hereby finds, determines and declares that it is in the public interest that there be a Comprehensive Plan. To promote the public health, safety and general welfare, to improve the physical environment of the City as a setting for human activities; to evaluate the social and economic effects of land development; to effect the formularization, determination and implementation of community values, policies, standards and objectives; to consider the effect on community financial capabilities, public and private investments and to consider the effect on the environment when making land development decisions. (Ord. 91-30; Ord. 01-42)

### **7.1.103: PURPOSES:**

The purposes of preparing the Comprehensive Plan are as follows:

A. To initiate comprehensive studies of factors relevant to land development.

- B. To recognize and state major problems and opportunities concerning land development and the social and economic effects of land development.
- C. To set forth the desired sequence, patterns and characteristics of future land development and its probable environmental, economic and social consequences.
- D. To provide a statement of programs necessary or desirable to obtain the desired sequence, patterns and characteristics of future land development.
- E. To determine the probable environmental, economic and social consequences of the desired land development and the proposed programs.
- F. To address other issues which affect community character and can improve the quality of life of the citizens of Colorado Springs. (Ord. 91-30; Ord. 01-42)

**7.1.104: AREAS OF CONSIDERATION:**  

The following areas shall be considered in formulating the Comprehensive Plan:

- A. Present procedures for guiding the public and private development of land shall be reviewed, and when desirable, changes to such procedures shall be considered.
- B. Existing natural conditions shall be used to the extent possible in determining the type, density and intensity of public and private development of land within the planning jurisdiction of the City.
- C. Public improvements, existing and planned, shall be considered as a means to effect the public and private development of land within the planning jurisdiction of the City.
- D. Public utilities, existing and planned, shall be considered as a factor in guiding public and private development of land within the planning jurisdiction of the City.
- E. Maximum utilization of existing public investments shall be considered in guiding public and private development of land within the planning jurisdiction of the City.
- F. That the City may have to provide a broader range of public improvements than undertaken in the past.
- G. Matters which may affect community character and quality of life of the citizens of Colorado Springs.

H. That all of the above areas of consideration must be correlated, integrated and coordinated in establishing a Comprehensive Plan. (Ord. 91-30; Ord. 01-42)

#### **7.1.105: PLANNING BASIS:**

The Comprehensive Plan shall be based on the following:

A. Population and population distribution, which may include analysis by age, educational level, income, employment, race or other appropriate characteristics.

B. Amount, type, intensity and general location of commerce and industry.

C. Amount, type, quality and general location of housing.

D. General location and extent of existing or currently planned major transportation, utility and community facilities.

E. Amount, general location, and interrelationship of different categories of land use.

F. Extent and general location of blighted or deteriorated areas and related factors.

G. Areas, sites or structures of historical, archaeological, architectural, paleontological and scenic significance.

H. Natural resources, including air, water, open spaces, forests, soils, wildlife and minerals.

I. Present and prospective availability of financial resources needed to undertake development proposed in the plan.

J. Any other matters found to be important to future land development, community character and quality of life. (Ord. 91-30; Ord. 01-42)

#### **7.1.106: STATEMENTS OF TRENDS, OBJECTIVES, POLICIES AND STRATEGIES:**



A. The Comprehensive Plan may contain statements identifying the present conditions and major problems relating to development, physical deterioration, and the location of land uses and the social and economic effects thereof, and may show the projected nature and rate of change in present conditions for the reasonably foreseeable future based on a projection of current trends,

and may forecast the probable social and economic consequences which will result from such changes.

- B. The Comprehensive Plan may include statements of objectives, policies and strategies regarding proposed or foreseeable changes in present conditions and problems and regarding any other matters of citizen concern. The plan may analyze the probable social and economic consequences of its objectives, policies and strategies and shall evaluate, to the extent feasible, alternative objectives, policies and strategies with respect to probable social and economic consequences.
- C. The Comprehensive Plan may include statements regarding the coordination of the plans, objectives, policies and strategies.
- D. The Comprehensive Plan may include maps, diagrams or other visual aids which illustrate, clarify or explain these statements. (Ord. 91-30; Ord. 01-42)

#### **7.1.107: ADOPTION OF PLAN:**

- A. The City Council shall adopt by ordinance the Comprehensive Plan. Because the plan is a series of statements, objectives, policies and strategies and maps designed to guide the public and private development of land, the plan need not be adopted as a whole, but may be adopted as individual statements that may be amended, modified, changed or repealed as other statements are adopted or as community values, objectives and goals are reevaluated.
- B. Before adopting the Comprehensive Plan or individual parts, the City Council shall hold at least one duly advertised public hearing. At the hearing the City Council shall consider the recommendations of the Planning Commission and the Comprehensive Plan Task Force. (Ord. 91-30; Ord. 01-42; Ord. 01-43)

#### **7.1.108: AMENDING THE PLAN:**

It shall be the responsibility of the City to regularly convene the Comprehensive Plan Task Force to initiate proposed amendments to the text of the Comprehensive Plan. The convening of the Comprehensive Plan Task Force creates a dialogue among the members of the community concerning values, vision and land development objectives. Community dialogue is a continuing process throughout the development of the plan, and such a process is necessary so that the plan and land development decisions made under the plan reflect community values, vision and objectives. Representatives of the City staff will provide support to the Comprehensive Plan Task Force and be responsible for preparing draft revisions, which shall be forwarded to the Planning Commission for their review and recommendation to the City Council. (Ord. 91-30; Ord. 01-42; Ord. 09-80; Ord. 19-3)

#### **7.1.109: LEGAL STATUS OF PLAN:**

The contents of the Comprehensive Plan are designed to serve as a guide in the public and private development of land and as such are not binding upon the City when making specific land use decisions. (Ord. 91-30; Ord. 01-42)

### **7.1.110: CONTENTS OF PLAN:**

The Comprehensive Plan consists of the City's statements, objectives, policies, strategies, maps and the appendices. The appendices constitute approved master plans as defined in the City Code. (Ord. 91-30; Ord. 01-42)

### **7.1.111: USE OF COMPREHENSIVE PLAN:**

The City Council, all City boards and commissions, the various City groups, departments, divisions, enterprises and officials shall be responsible for knowing the contents of the Comprehensive Plan and shall consider the relevant policies set forth in the Comprehensive Plan prior to making decisions. Nothing set forth in the Comprehensive Plan shall prohibit the City Council, City boards or commissions, various City groups, departments, divisions, enterprises and officials, after considering the plan, from deviating from the policies set forth in the Comprehensive Plan where circumstances warrant in making decisions affecting specific property. (Ord. 91-30; Ord. 01-42)

# Article 2

## BASIC PROVISIONS, DEFINITIONS AND LAND USE TYPES AND CLASSIFICATIONS

### PART 1 BASIC PROVISIONS

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**7.2.101: TITLE:**  

These articles shall be known as the *ZONING CODE OF THE CITY OF COLORADO SPRINGS* and may be so cited and pleaded. "This Zoning Code" is this article through [article 5 of this chapter](#). The City Code is also referenced throughout this Zoning Code. (1968 Code; Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.2.102: INTENT AND PURPOSE OF ZONING CODE:**  

This Zoning Code is designed to ensure the most appropriate use of land throughout the City; to ensure a logical growth of the various physical elements of the City; to lessen congestion in the streets and to facilitate the adequate provision of transportation; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to improve housing standards; to conserve property values; to facilitate adequate provision of utilities, schools, parks and other public infrastructure services; to protect against flood conditions and poor geologic and topographic conditions; and in general to promote health, safety and general welfare. The regulations within this Zoning Code have been made with reasonable consideration to the character of each zone district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout the City.

It is the intent and purpose of this Zoning Code to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, incompatibility of uses, inappropriate design of buildings, and visual obstructions. (1968 Code; Ord. 80-131; Ord. 81-149; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.2.103: JURISDICTION:**  

The regulations of this Zoning Code shall apply to all property within the corporate limits of the City of Colorado Springs and do not supersede private covenants that are more restrictive. (1968 Code §14-4; Ord. 80-131; Ord. 91-17; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.2.104: CONSISTENCY WITH COMPREHENSIVE PLAN:**  

This Zoning Code is an important tool for implementing the goals, policies, and recommendations of the City's Comprehensive Plan, and it shall be consistent with that plan. All development within the City of Colorado Springs shall be in accord with the application of the Comprehensive Plan. (Ord. 94-107; Ord. 01-42)

**7.2.105: ESTABLISHMENT OF ZONE DISTRICTS:**  

A. Establishment: For the purpose of this Zoning Code, the City is hereby divided into the following zone districts and overlay districts:

<u>Zone</u>	<u>District Name</u>
A	Agricultural
R	Estate, Single-Family
R-1 9000	Single-Family
R-1 6000	Single-Family
R-2	Two-Family
R-4	Multi-Family
R-5	Multi-Family
SU	Special Use
TND	Traditional Neighborhood Development
OR	Office Residential
OC	Office Complex
PBC	Planned Business Center
C-5	Intermediate Business
C-6	General Business
PIP-1	Planned Industrial Park

PIP-2	Planned Industrial Park
M-1	Light Industrial
M-2	Heavy Industrial
PF	Public Facilities
PK	Public Parks
APD	Airport Planned Development
PCR	Planned Cultural Resort
DFOZ	Design Flexibility Overlay
HR	High Rise Overlay
HS	Hillside Area Overlay
HP	Historic Preservation Overlay
AO	Airport Overlay
P	Planned Provisional Overlay
SS	Streamside Overlay Zone
NNA	North Nevada Avenue Overlay
PUD	Planned Unit Development
MU-NC	Mixed Use - Neighborhood Center
MU-CC	Mixed Use - Commercial Center
MU-R/EC	Mixed Use - Regional/Employment Center
FBZ	Form-Based

B. Zoning Of Lots: Each lot within the City must be designated with one base zone district. A lot or site may have only one base zone district. In addition to the base zone district designation, one or more overlay district(s) may be applied to the lot or to portions of the lot.

C. Zoning Maps: The boundaries of the zone districts established by this Zoning Code shall be shown on a map entitled the "Zoning Map Of The City Of Colorado Springs".

D. Boundaries Of Zones: In determining the boundaries of zones shown on the zoning map of the City of Colorado Springs, the following rules shall apply:



1. Rights-Of-Way: Unless otherwise indicated, the zone district boundaries are the centerline of streets, alleys, waterways, or railroad rights-of-way. Where street, alley, or other rights-of-way lie adjacent to each other, the zone boundary is the imaginary line bisecting the combined width of the adjacent rights-of-way or such line extended. The area within any of the rights-of-way is not granted any of the use rights associated with the overlaying zone district.
2. Lot Or Block Lines: Where no rights-of-way exist and the zone boundaries are indicated as approximately following lot or block lines, such lines shall be considered as district boundaries.
3. Unsubdivided Property: In unsubdivided property or where a boundary divides a property, boundaries on the zoning map of the City of Colorado Springs shall be determined by use of the scale indicated on such maps unless otherwise dimensioned.
4. Vacated Right-Of-Way: Whenever a public street, alley or other right-of-way has been vacated, the zone district adjoining each side of the right-of-way shall be extended to the former centerline. The regulations associated with the zone district shall apply to the area of vacation.
5. Map Discrepancies: Should an actual street layout or stream course vary from that shown on the map or any other uncertainty remain as to the location of a zone district boundary on the zoning map of the City of Colorado Springs, the Manager or the designee of the Community Development Department, hereinafter "Manager", shall interpret the map according to the reasonable intent of this Zoning Code or refer the decision to the Planning Commission at a regularly scheduled meeting. (1968 Code §14-6; Ord. 80-131; Ord. 81-102; Ord. 82-115; Ord. 83-45; Ord. 86-104; Ord. 86-229; Ord. 87-141; Ord. 88-153; Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 02-153; Ord. 02-166; Ord. 03-157; Ord. 06-89; Ord. 09-50; Ord. 09-70; Ord. 09-80; Ord. 18-14)

### **7.2.106: ZONING OF ANNEXED AREAS:**

The petitioners of an annexation may request that the initial zoning of the land to be annexed occur concurrently with the annexation ordinance in accord with the Municipal Annexation Act of 1965, article 12 of title 31 of the Colorado Revised Statutes. If there is no request for the establishment of an initial zone district by petitioners for annexation or if the annexation is in accord with Colorado Revised Statutes section 31-12-106, the initial zoning of the annexed land shall be accomplished within ninety (90) days of the effective date of the annexation ordinance. The establishment of an initial zone district shall be accomplished after at least one public hearing by the City Planning Commission and City Council jointly or singly to consider the action. (1968 Code §14-7; Ord. 80-161; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.2.107: CONFORMITY WITH REGULATIONS REQUIRED:**

Except as herein specified, it shall be unlawful to use any building, structure, or land or to erect, move, structurally alter, convert, extend, or enlarge any building or other structure except in conformity with the requirements established in the zone district in which said structure, building, or land is located and in accord with the provisions of this Zoning Code. (Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.2.108: SIMILAR USES:**

When a use is not specifically identified as allowed in a zone district, it shall not be allowed in the zone district unless it meets the following description and criteria of a similar use. The function, performance characteristics, and location requirements of the unlisted, proposed use must be

consistent with the purpose and description of the zone district where it is proposed, compatible with the uses specifically allowed in the district, and similar in characteristics such as traffic and parking generation, noise, glare, vibration, and dust. Uses may be allowed as principal permitted, conditional, and accessory uses in any zone district where similar uses are allowed. Similar use determinations shall be made by the Manager or the designee in writing. (Ord. 94-107; Ord. 01-42)

### **7.2.109: CONFLICTING PROVISIONS:**

Where any provision of this Zoning Code conflicts with any other provision of this City Code, or any other law or ordinance, the more stringent requirement, regulation, restriction, or land use limitation shall apply. (Ord. 94-107; Ord. 01-42; Ord. 10-107)

### **7.2.110: SEVERABILITY:**

If any section, part, clause, or phrase of this Zoning Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Zoning Code. (Ord. 94-107; Ord. 01-42)

### **7.2.111: PENALTY FOR VIOLATION OF ZONING CODE:**

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who obstructs the enforcement of any of the provisions of this Zoning Code shall be subject to the remedies set forth in article 5, part 10 of this chapter. (Ord. 94-107; Ord. 01-42)

### **7.2.112: CITATIONS:**

Chapters, articles and sections of this Zoning Code shall be cited as (chapter, article and section), thus reading for example, section [7.2.112](#) of this part. All citations referenced are from this Zoning Code, articles 2, 3, 4 and 5 of this chapter, unless otherwise indicated. (Ord. 94-107; Ord. 01-42)

## **PART 2 DEFINITIONS**

### **[7.2.201: DEFINITIONS ENUMERATED:](#)**

### **7.2.201: DEFINITIONS ENUMERATED:**

Except where specifically defined below or in following parts, all words used in this Zoning Code shall carry their customary meanings, when not inconsistent with the context. Words used in the present tense include the future, and the plural includes the singular and the singular also includes the plural; the word "structure" includes the word "building"; the word "shall" is intended to be mandatory; and "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied".

**ACCESS:** The place, means or way by which vehicles and persons shall have safe, adequate, and usable ingress and egress to a property, a use, or a parking space.

**ACCESSORY DWELLING UNIT:** A dwelling unit allowed in specific zones that is subordinate to the principal residential dwelling on the lot and which is located upon the same lot as the principal unit. An accessory dwelling unit is under the same ownership as the principal unit and it may be used for either residential or home occupation uses.

**ACCESSORY STRUCTURE:** A structure that is located on the same lot and detached and separate from the principal building. Accessory structures shall be incidental to the principal structure and devoted exclusively to an accessory use. Examples of accessory structures may include, but are not limited to: garages, carports, sheds, storage buildings, play structures, gazebos, arbors, greenhouses, barns, saunas, and other similar buildings. Fences and walls that exceed six feet (6') in height are considered accessory structures.

**ACCESSORY USE:** A use which is subordinate to and serves a principal building or a principal use; is subordinate in extent or purpose to the principal building or a principal use; contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal building or principal use served; is located on the same lot as the principal building or principal use served.

**ADMINISTRATIVE RELIEF:** To provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal, or a minor problem arises with the strict application of the development standards.

**ALLEY:** A public or private right of way, located at the rear or side of a property, designed for the special accommodation of the property it reaches, and not intended for general travel.

**AMENDMENT:** A change in the wording, context, or substance of this Zoning Code or a change in the zone district boundaries upon the zoning map.

**AUTOMOBILE:** A motor vehicle used in the conduct of normal daily activities and can be lawfully parked in a parking space which conforms to all requirements of the City Code. This term includes motor vehicles commonly called motorcycles, cars, vans, or pickups.

**BALCONY:** A platform above the first floor that projects from the wall of a building and is surrounded by a railing or balustrade.

**BATH FACILITIES:** A room which includes a toilet and shower or bath.

**BUILD-TO LINE:** The line at which construction of a building facade is to occur on a lot. A build-to line runs parallel to, and is measured from, the front property line and is established to create an even (or more or less even) building facade line on a street.

**BUILD-TO ZONE:** An area of a lot designated for placement of a building facade along a street, located parallel to a front property line. The build-to zone defines an area in which the locations of building fronts can vary within a specified range.

**BUILDING:** Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property.

**BUILDING ARTICULATION:** The architectural details of a building facade that create architectural detail, such as varied facade planes, windows and awnings. Buildings are usually articulated in order to modulate the building mass and create visual interest.

**BUILDING ENVELOPE:** The three-dimensional space within which the principal use is permitted to be built on a lot which is defined by maximum height regulation, lot coverage, yard setbacks and

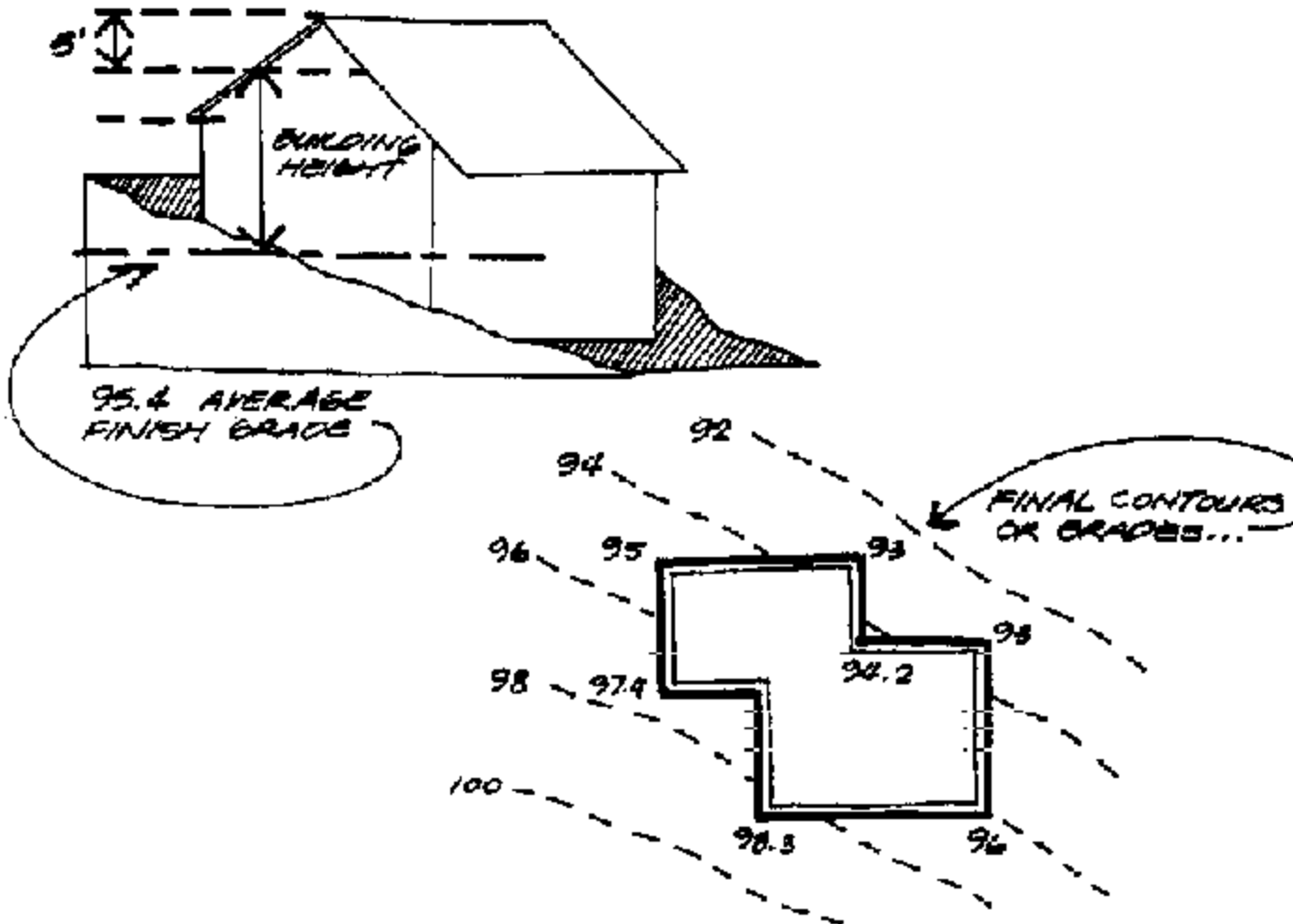
landscape setbacks.

**BUILDING GRADE:** The natural elevation of the ground surface on a lot or parcel prior to the approved development plan or the ground surface created in accord with a grading and development plan approved by the City.

**BUILDING HEIGHT (Hillside Zone):** Within the hillside overlay, the height of any building elevation shall be measured vertically from the building grade to the corresponding highest point of the roof.

**BUILDING HEIGHT (Nonhillside Zone):** The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the roof surface of a flat roof and to a point five feet (5') below the highest ridge of a gable, hipped, or gambrel roof. The average elevation of the finished grade adjoining the building shall be the average of the exposed exterior elevations of all major corners of the building. The height of a stepped or terraced building is the maximum height of any segment of the building. Exceptions to building height requirements are described in section [7.4.102](#) of this chapter.

# Building Height



**CERTIFICATE OF OCCUPANCY:** A certificate issued by the Regional Building Official prior to occupancy of a structure which confirms that the structure complies with all City codes and ordinances and that all improvements (i.e., paving, landscaping, etc.) are in place.

**CITY:** The City of Colorado Springs, Colorado.

**CITY CODE:** The Code of the City of Colorado Springs 2001, as amended.

**CITY COUNCIL:** The City Council of the City of Colorado Springs.

**CITY ENGINEER:** The City Engineer of the City or the designee.

**CIVIC EVENT:** An event which is of civic or public benefit. The event must be sponsored by a public, charitable, or nonprofit organization and shall not be for personal or private gain. The event must further the athletic, benevolent, cultural, educational, historical, medical, political, public, patriotic, religious, scientific or social service objectives of the sponsor. This may include fundraising activities for the charitable or a nonprofit group or organization. This is usually conducted as a temporary use.

**CLEAR ZONE:** An area inside the curb radius, within the sidewalk or tree lawn, that is kept clear of all objects and trees, to provide emergency vehicle clearance.

**COMMON AREA:** Any portion of a development that is designed for the common usage of the owners and residents within a development. These areas may include plazas, private parks and open spaces, and in some cases parking lots and pedestrian walkways. Maintenance of such areas is the responsibility of a private entity, and is normally set forth in the form of private restrictive covenants, which guarantee the private maintenance of these areas.

**COMPATIBILITY:** The characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict. To determine compatibility, the following characteristics of the uses and structures shall be reviewed relative to other affected uses and structures: location, orientation, operation, scale, and visual and sound privacy.

**COMPREHENSIVE PLAN:** The Comprehensive Plan of the City of Colorado Springs.

**CONCEPT PLAN:** An accurate graphic representation drawn to scale of the proposed development of a particular site which indicates in a conceptual form the proposed and surrounding land uses. The plan may include, but not be limited to, the intended lot lines, general uses, likely ranges of square footages of the proposed uses and the general location of building and parking areas, points of access, primary internal circulation, existing contour lines, existing easements and required dedication areas for public facilities. The concept plan shall contain the information required in the concept plan application provided by the Department.

**CONDITIONAL USE:** A land use which is an allowed use in a zone district but has operating and/or physical characteristics which require careful consideration and public review of the impact upon the neighborhood and the public facilities surrounding the proposed location. Conditional uses are subject to special requirements and the approval of the Planning Commission.

**CONNECTIVITY:** The interconnectedness of streets, bicycle paths, transit routes and pedestrianways. This is in contrast to use of dead end streets, long streets with few intersections and cul-de-sacs.

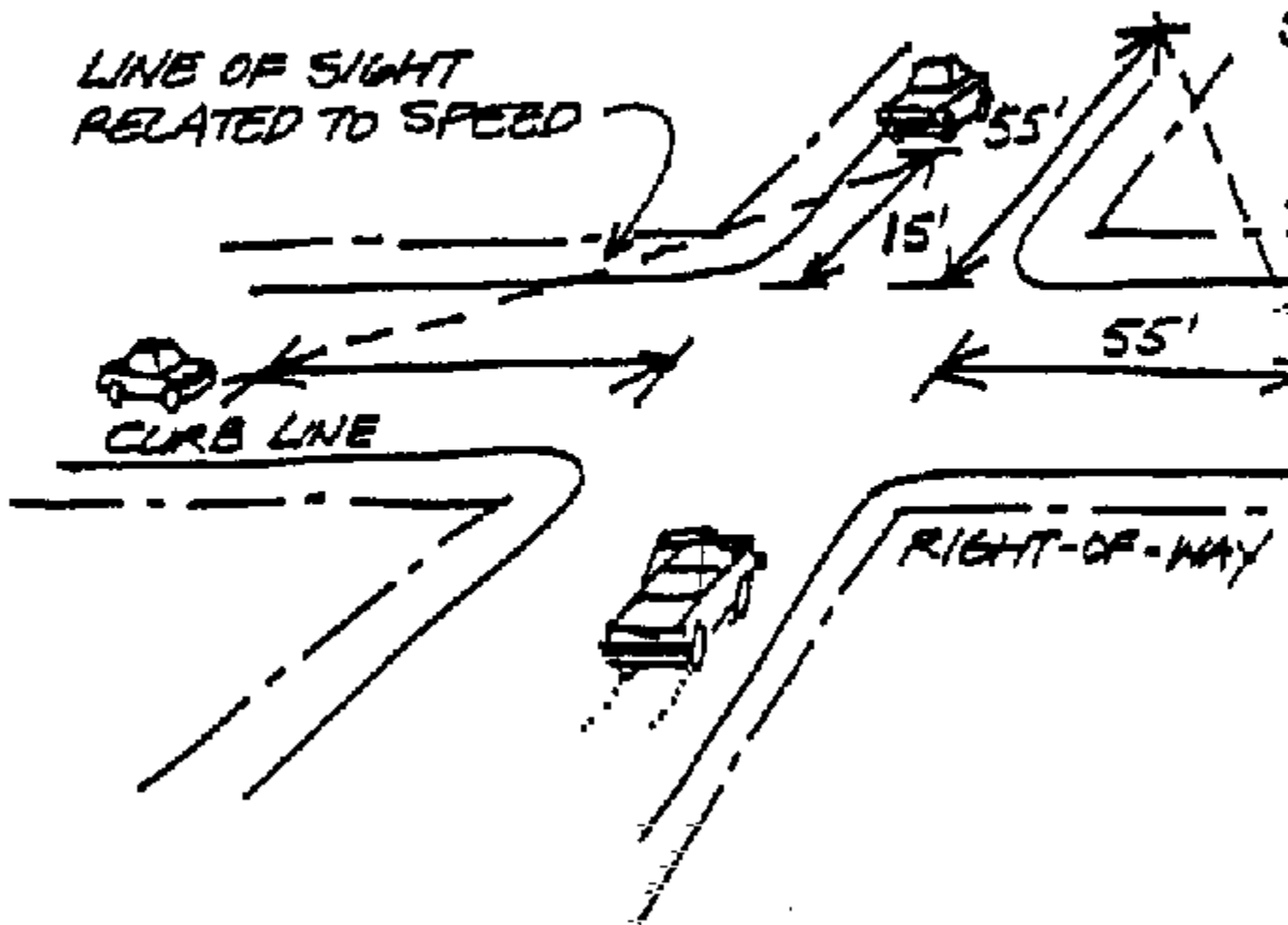
**CONSTRUCTION EQUIPMENT:** A vehicle which is used in the process of removing, erecting, altering, or extending a building and/or digging, removing, altering, or hauling away the ground. This definition includes equipment which is used to lay roads, install curb, gutter, sidewalks and utility lines, remove or plant trees, or transport other construction equipment to and from work sites or storage sites. Common terms include dump trucks, front end loaders, backhoes, graders and bulldozers.

**CONTEXT SENSITIVE PUBLIC PLANNING PROCESS:** A publicly or privately initiated planning process which involves public visioning and stakeholder input, and which comprehensively evaluates the existing and potential land uses and building types for any subarea of the City, fully evaluates the public realm and recommends future uses and/or building types and densities for the area.

**CORNER VISIBILITY TRIANGLE:** The triangular area formed within fifty five feet (55') of the intersection of the curb lines of two (2) streets or a railroad right of way line and a street curb line. In

addition to the aforementioned, a greater distance of line of sight is required at all intersections that directly correlate with the design speed of the intersecting road.

## Corner Visibility Triangle



CORRAL: A pen or enclosure for confining hooved animals. Refer to section [7.3.105](#) of this chapter and [chapter 6](#) of this Code for additional requirements.

COURTYARD: An open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building.

CURB: A stone or concrete boundary usually marking the edge of a roadway or paved area.

**CURB CUT:** The length of an opening in the curb along a roadway that allows vehicular access to an abutting development site.

**DENSITY:** The number of dwelling units per acre.

**DEPARTMENT:** The administrative department of the City responsible for planning, land use and development and related activities.

**DESIGN GUIDELINES:** Written statements, explanatory material, graphic renderings and/or photographs which are advisory recommendations intended to provide property owners and the public with specific examples of techniques and materials that can be used to achieve adopted standards.

**DESIGN STANDARDS:** Written statements adopted in this Zoning Code by City Council that set forth the required criteria, goals or objectives for the design of particular areas, systems and elements of the City and how they relate to one another.

**DETACHED:** Not attached and having no wall in common and separated by three feet (3') or more; structures that are connected by a covered, unenclosed breezeway shall be considered detached if the breezeway is less than twelve feet (12') in height or less than six feet (6') in width.

**DEVELOPMENT PLAN:** An accurate detailed, scaled, graphic representation of a proposed development which shows the specific land uses, site design, and land dedication requirements for the property. It provides information including, but not limited to, building locations and building footprints, parking areas and designs, ingress/egress, access and utility easements. The development plan includes, but is not limited to, a detailed site plan, a preliminary or final landscape plan, building elevation drawings, a preliminary utility/facilities plan, a preliminary grading plan or a phasing plan, as appropriate. The development plan shall contain the information required in the development plan application provided by the Department.

**DEVELOPMENTALLY DISABLED:** Those persons having a disability that is manifested before the person reaches the age of twenty two (22), is likely to continue indefinitely, constitutes a substantial handicap to the affected individual and is attributable to mental retardation or conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons; or if under the age of five (5), are determined to be at risk of such, and require treatment or services similar to those required by mentally retarded persons.

**DOWNSLOPE LOT:** A parcel of land where the general terrain of the land decreases in elevation away from the street frontage.

**DRIVE-UP FACILITY (Also Known As DRIVE-IN OR DRIVE-THROUGH FACILITY):** An establishment that by design encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**DWELLING UNIT:** Any room or group of rooms, including a kitchen and sanitary facilities, located within a building and forming a single habitable area with facilities that are used or intended to be used for living, sleeping, cooking and eating.

**EASEMENT:** A grant of one or more of the property rights by the property owner to and/or for the use by the public entity or private entity or individuals.



**ELDERLY:** A person over the age of sixty (60) years.

**EROSION PREVENTION TREATMENT:** The management of the graded areas in hillside areas by plantings and/or other devices which will serve to prevent the soil erosion of such graded areas.

**FACADE:** That portion of any exterior elevation on the building extending from grade to top of the parapet, wall or eaves and the entire width of the building elevation.

**FAMILY:** As used in this Zoning Code, an individual, two (2) or more persons related by blood, marriage, adoption, or similar legal relationship, or a group of not more than five (5) persons who need not be so related, plus domestic staff employed for services on the premises, living together as a single housekeeping unit in one dwelling unit. The definition of "family" shall apply regardless of whether any member of such group receives outside services for mental, emotional, or physical disability.

**FENCE OR WALL:** A structure made of wood, brick, stone, stucco, concrete, wrought iron, chainlink, plastic, composite, vinyl or other similar material that provides screening or encloses an area, most often a front or back yard. Walls include both freestanding walls and retaining walls.

**FILL:** A deposit of earth material by mechanical means.

**FLOOR AREA:** The total horizontal area of the floors of a building measured from the exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces and maneuvering areas, or any space where the floor to ceiling height is less than seven and one-half feet (7<sup>1</sup>/<sub>2</sub>').

**FLOOR AREA RATIO:** The gross floor area of all buildings on a lot divided by the lot area.

**FULLY SHIELDED LIGHTING FIXTURE:** A light fixture that is constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal.

**GARAGE SALE:** An accessory use involving the sale or offering for sale articles of tangible personal property by the owner, lessee or other occupant of a dwelling unit. The term garage sale shall include patio sale, yard sale, or any similar sale.

**GRADING:** Any excavating or filling or combination thereof.

**GREENWAY:** A linear open space or park that provides passive recreation opportunities and/or bicycle or pedestrian paths. It often contains a waterway with surrounding natural creek environment including water channels, floodplain and riparian vegetation.

**GREENWAY DEVELOPMENT:** A structure (residential or commercial) that has its primary front entrance facing a courtyard or landscaped open space commonly called a greenway. Pedestrian sidewalks are included in the greenway and provide access to public streets that intersect the greenway, as well as to the front doors of the units. Vehicular access to each structure or unit is provided from alleys or streets in the rear with parking in back (often in a garage).

**GROSS VEHICLE WEIGHT RATING (GVWR):** The sum of the actual weight of the vehicle and the maximum weight which the vehicle is designed to transport.

**HISTORIC PRESERVATION:** See article 5, part 16 of this chapter for historic preservation definitions.

**HUMAN SCALE:** The relationship between the dimensions of the human body and the proportion of the spaces that people use. This is underscored by surface texture, activity patterns, colors, materials and details. The understanding of walking distances and spatial perceptions at a human scale determines the most positive placement of buildings, and the physical layout of the community. Buildings ranging in height from two (2) to six (6) stories, trees and pedestrian scaled signs and streetlights, textured pedestrian paths and semiprivate spaces all enhance this positive scale.

**INDIGENT PERSON:** One whose financial circumstances fall within the fiscal standards established by the Supreme Court of Colorado for public defender eligibility status.

**INFILL OR INFILL DEVELOPMENT:** Development of vacant parcels within a built up area. Parks and open space are considered infill development, since they are permanent uses for vacant parcels.

**INOPERABLE VEHICLE:** Any motor vehicle or other self-propelled vehicle which is incapable of moving under its own power and which the owner or possessor thereof cannot establish as being capable of travel under its own power, in its existing condition, in a safe and lawful manner upon public streets and highways.

**INTERNAL STREET OR INTERNAL STREET SYSTEM:** The system of public or private streets located internal to a development site, and which may connect at one or both ends to a perimeter public street. The internal street system is intended to provide vehicle, pedestrian, and bicycle access and circulation to all uses within a development site.

**JUNK:** Any manufactured goods, appliance, fixture, furniture, machinery, vehicle, personal property or any other thing or part thereof, whether of value or valueless, that is demolished, discarded, dismantled, partially dismantled, dilapidated, or so worn and deteriorated that it would not be normally usable in its current state for its original manufactured use. This may include, but is not limited to, wood, used lumber, paper, glass, bottles, rags, rubber, scrap metal, tin cans, scrap material, waste, concrete, rubble, boxes, crates, building materials, or machinery parts.

**KITCHEN:** A room with the necessary facilities to store, prepare, and cook food that includes a two hundred twenty (220) volt outlet for an electric stove or connection for a gas or propane stove.

**LAND DEVELOPMENT TECHNICAL COMMITTEE:** Committee consisting of representatives from appropriate City departments to review and make recommendations on land development matters.

**LEGAL DESCRIPTION:** An accurate, complete written account of a specific tract of land or other real estate, including its size, configuration, and location.

**LIVE/WORK UNIT:** A residential use type that combines a dwelling and a commercial space under single ownership in a structure. The residential portion of the unit shall contain at least four hundred (400) square feet of gross floor area. The commercial space shall allow activities compatible with residential use with respect to noise, smoke, vibration, smell, electrical interference, and fire hazard, and may include such uses as professional services and offices, and the creation, display and sale of art, craftwork, jewelry, fabrication of cloth goods and similar activities.

**LOT:** A parcel of land shown as a lot on a recorded final plat, a parcel of land which meets the requirements of the Subdivision Code of this chapter, or a parcel of land where the Community Development Department has approved and has had recorded a property boundary adjustment to lots as shown on a recorded final plat, or a parcel of land for which a waiver of replat has been approved and recorded. The classification of lots is listed below:

Adjoining: The lot separated from the lot under consideration by a rear lot line, side lot line or street.

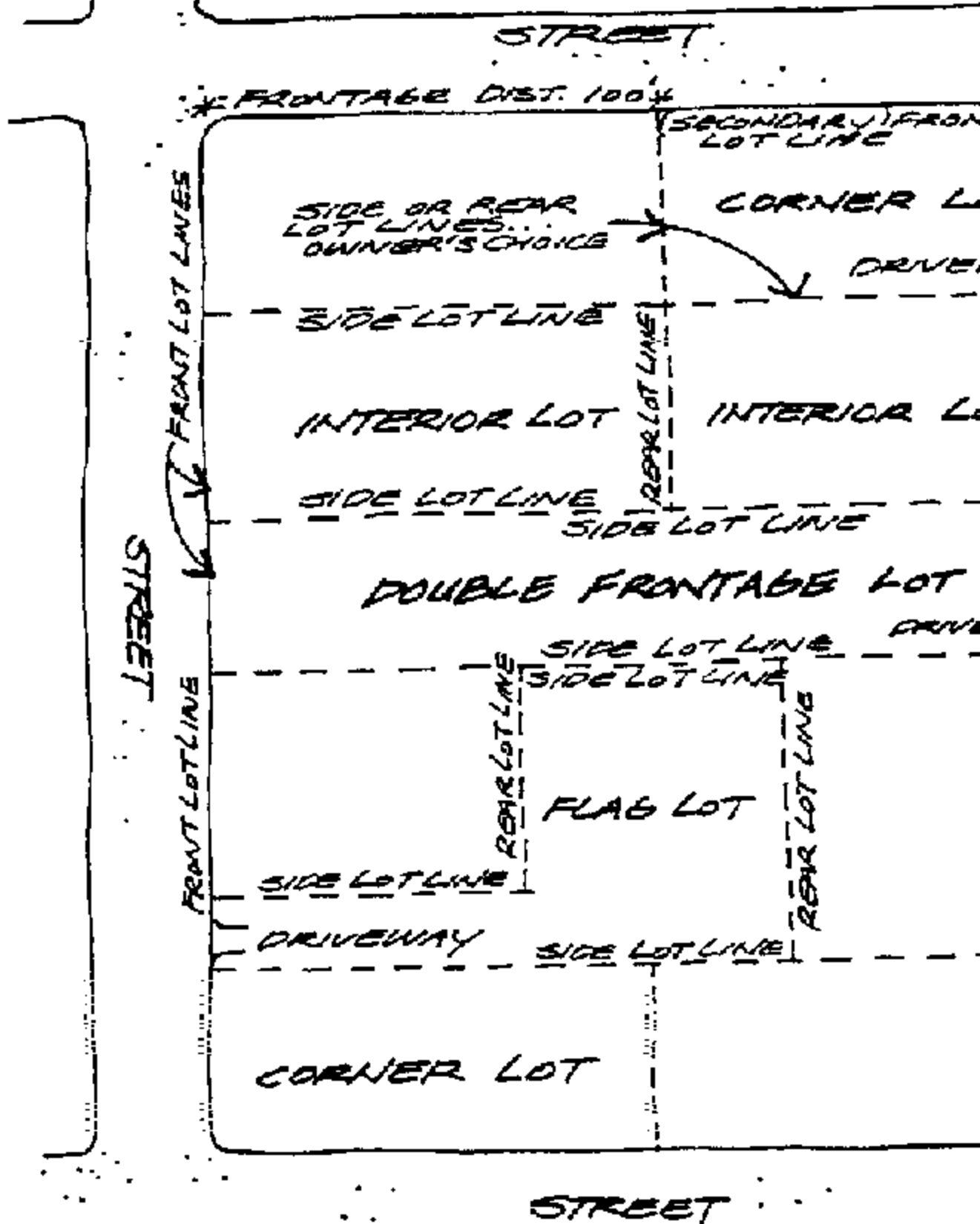
Corner: A lot located at the intersection of two (2) or more intersecting streets with frontage on both streets.

Double Frontage Or Through: A lot having frontage on two (2) generally parallel streets.

Flag: A lot where the front lot line abuts one or more rear or side lot lines of adjacent lots. Primary access is by a private or privately shared drive leading to a public or private street.

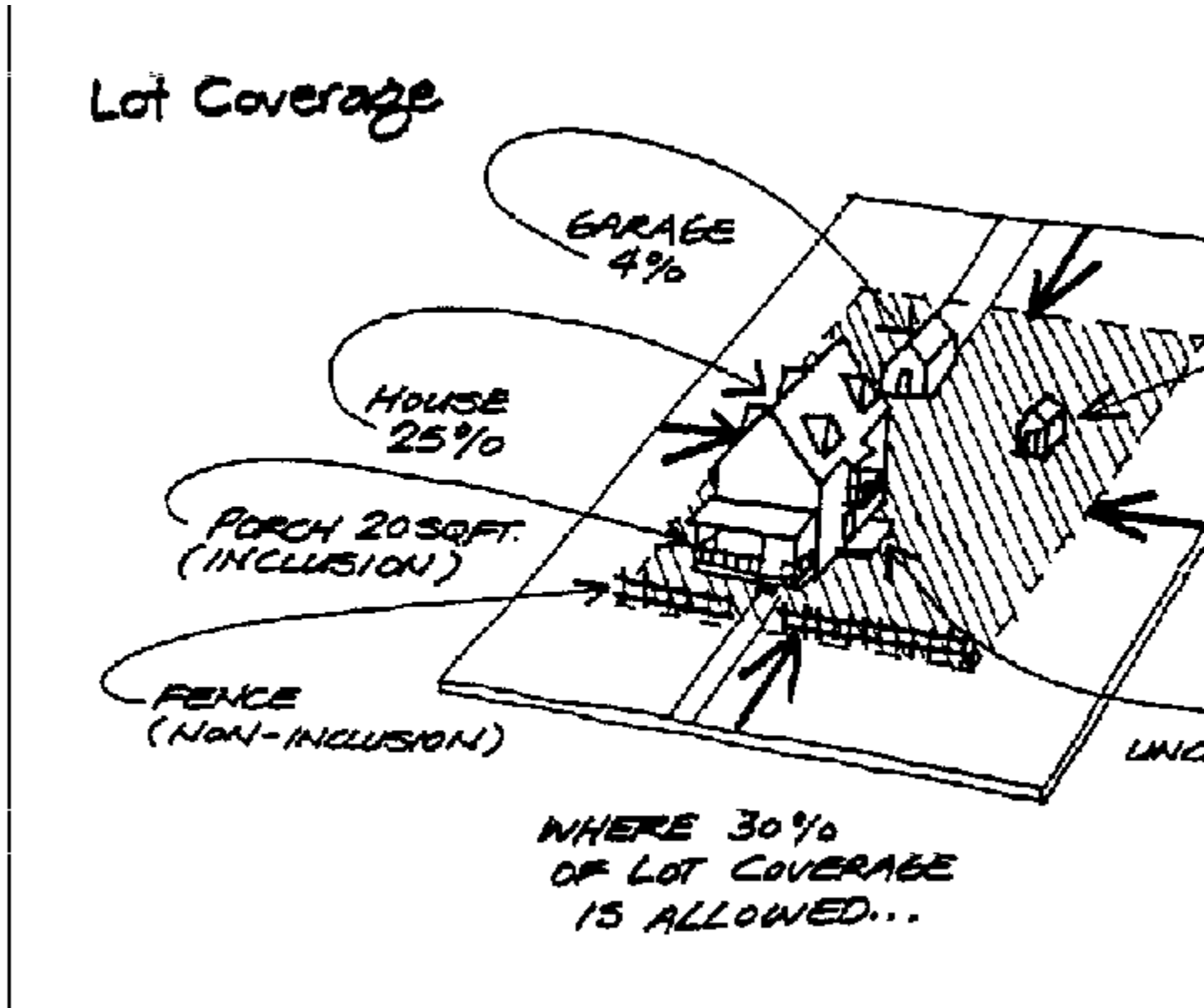
Interior: A lot having frontage along only one street.

# Types of Lots



LOT AREA: The total area within the lot lines of a lot.

LOT COVERAGE: The percentage of the lot area that may be covered by all of the footprints of the buildings and structures on a lot including detached garages, carports, sheds, gazebos, covered patios and decks.



LOT DEPTH: The least distance from the rear lot line to the front lot line.

LOT FRONTAGE: The length of a property line of a lot which abuts a public or private right of way.

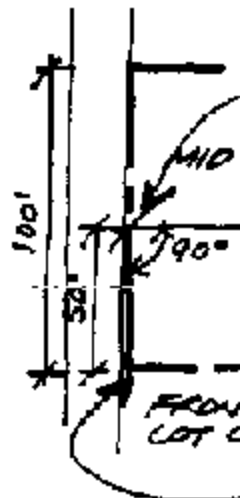
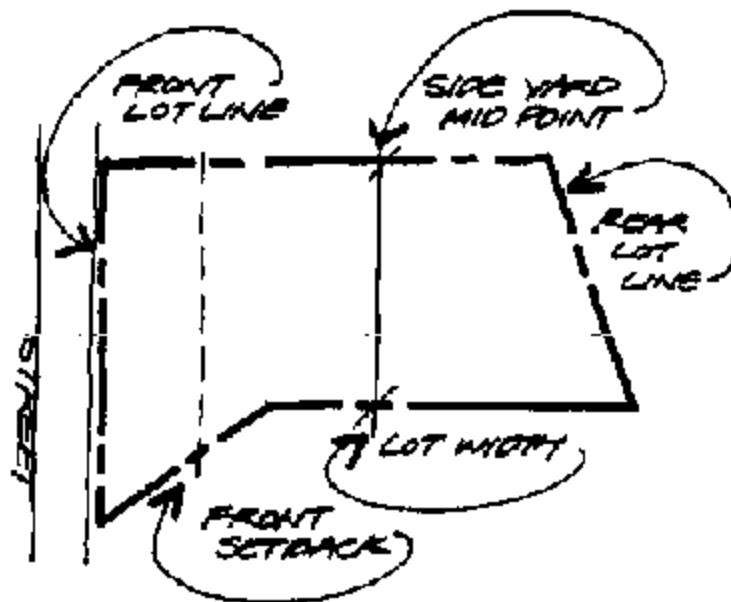
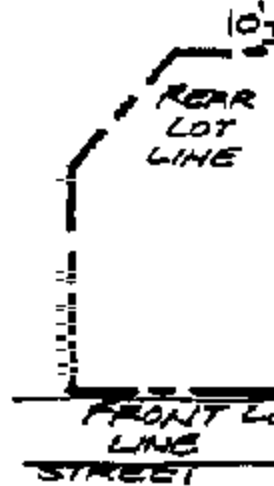
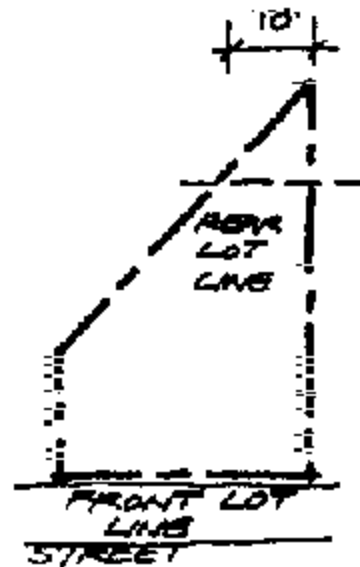
LOT LINES: The property lines bounding a lot as further defined below:

Front: Any property line separating a lot from any public street or private street, but not including alleys. In the case of corner lots, the primary front lot line is that property line most parallel to the street from which access is gained; the secondary front lot line is the other lot line with street frontage. In the case of a double frontage lot, there is one front lot line that is the property line most parallel to the street from which access is gained. For a flag lot, the front lot line is that property line not including the flag stem most parallel to the street from which access is gained.

Rear: The lot line which is opposite and most distant from the front lot line. In the case of a corner lot, the owner shall select any lot line, other than one of the front lot lines, to be the rear lot line. In the case of a double frontage lot, the rear lot line shall be most opposite the front lot line along the street frontage from which access is not gained. The rear lot line of any irregularly shaped lot or triangular lot shall be a line within the lot which is ten feet (10') long and most parallel to and distant from the front lot line. For a triangular lot which is also a corner lot, there shall be no rear lot line.

Side: The lot line that is not a front lot line or a rear lot line.

# Lot Lines

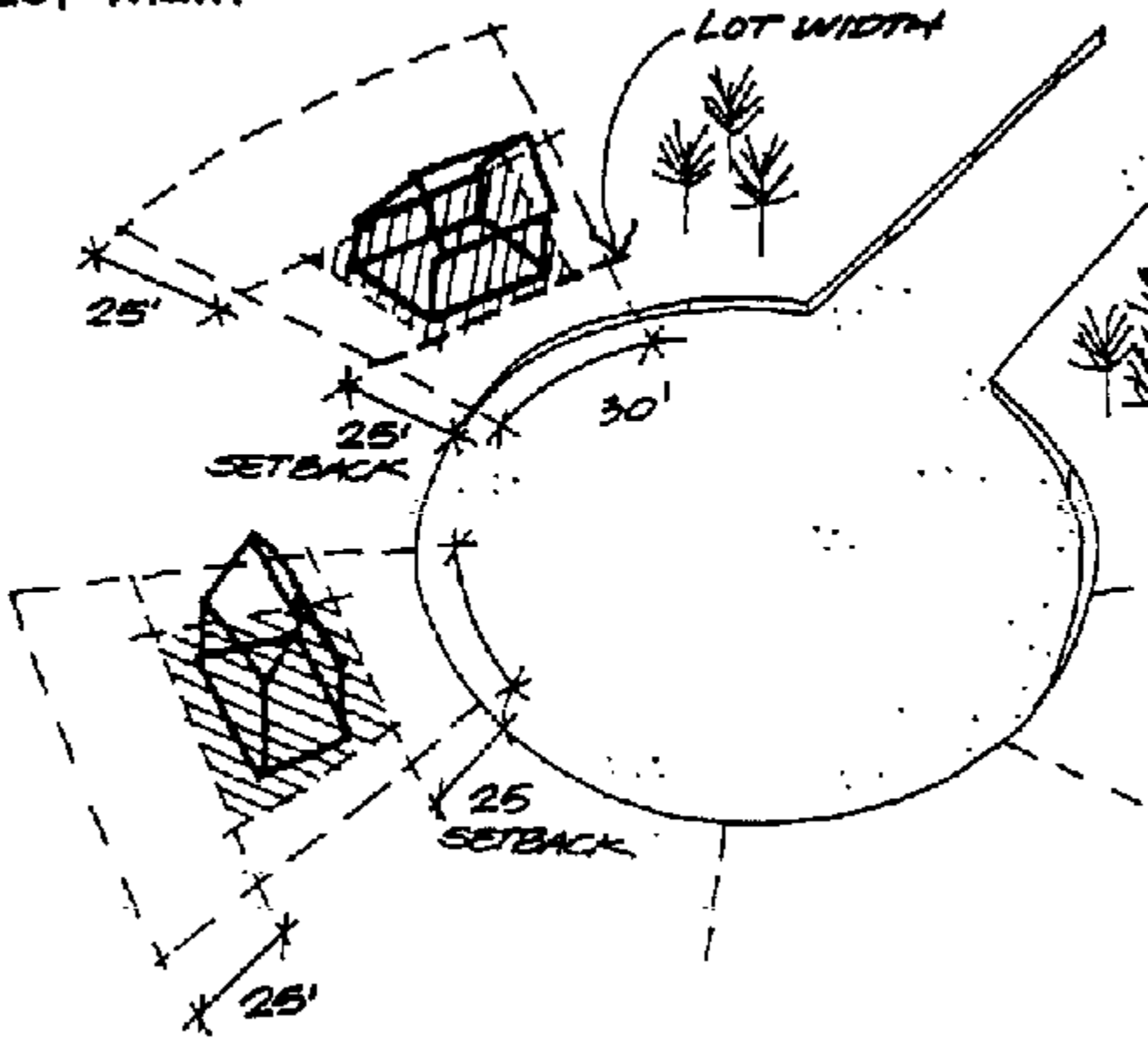


**LOT OF RECORD:** A parcel of land in the City, the deed of which was recorded in the public records of El Paso County, Colorado, on or before February 13, 1951; or a parcel of land which was subsequently annexed to the City which was either: a) a platted lot meeting the applicable subdivision requirements of El Paso County, b) a legal nonconforming lot in El Paso County, c) a parcel of land that was legally exempted by El Paso County from platting requirements, or d) a parcel of land in El Paso County created before September 1, 1972.

**LOT WIDTH:** The minimum horizontal distance between the side lot lines measured along a straight line most parallel to the front lot line. This minimum measurement or greater is maintained from the

front building setback to the rear building setback.

## Lot Width



**MAJOR STREET:** An actual or proposed street with a right of way width greater than sixty feet (60') which provides for the rapid and relatively unimpeded movement of vehicular traffic between major land use and activity centers in the City, while accommodating public transit and pedestrian movements on the City's arterial streets.



**MANAGER:** The person appointed by and reporting directly to the Mayor charged with the responsibility for planning, land use and development and related activities, or the Manager's designee.

**MASTER PLAN OR AREA MASTER PLAN:** A plan for the development of a portion of the City which contains a generalized transportation system, proposed land use, and shows the relationship of the area included in the plan to surrounding property. Master plans are more specific than the Comprehensive Plan. See article 5, part 4 of this chapter.

**MINE OPENING:** Any entrance from the surface to an underground mining operation and shall include, but not be limited to, air shafts, escape shafts, haulageways and slope entries. A mine opening shall be constructed so as to utilize the minimum amount of surface area as is practical and cause the least disturbance of the surface.

**MINING OPERATOR:** Any person, firm or corporation engaged and controlling a mining operation.

**MINING RECLAMATION:** The employment during and after a mining operation of procedures reasonably designed to minimize as much as practical the disruption from the mining operation and to provide for the rehabilitation of any such surface resources adversely affected by such mining operations through the rehabilitation of plant cover, soil stability, water resources and other measures appropriate to the subsequent beneficial use of such mined and reclaimed lands.

**MINOR STREET:** An actual or proposed street with a right of way width of sixty feet (60') or less which provides access to property in the City. Each minor street in the City shall be classified as a collector street, a residential street, a hillside minor residential street, an industrial street or a frontage street.

**MOBILE HOME PARK SPACE:** A designated parcel of land within a mobile home park designed to accommodate either a mobile home or a permanent recreational vehicle and accessory structures and to which utility services are provided.

**MOTOR VEHICLE:** Any self-propelled vehicle which is designed primarily for travel on the public streets and which is generally and commonly used to transport persons and property over the public streets.

**NONCONFORMING BUILDING, LEGAL:** A building, structure or part thereof which was constructed in the City and completed with the zoning standards in place during the year of construction, or which was constructed in the County and completed with the County zoning standards in place during the time of construction, that does not conform to all the height, setback, and lot coverage standards of the zone district in which it is located.

**NONCONFORMING LOT, LEGAL:** A lot of record that legally existed within the City zoning standards or County zoning standards that were in place at the time of its creation which has become nonconforming because it does not meet the minimum area or minimum width standards of the zone district in which it is located.

**NONCONFORMING USE, LEGAL:** Any nonconforming use of land or of a structure that legally existed within the City zoning standards or County zoning standards that were in place at the time of the start of the use which does not conform to the use regulations of the zone district in which it is located.

**OPEN SPACE:** A tract of land that is kept in its natural state in perpetuity. Vacant land that may be

subject to future development is not considered open space. There is no specified size range for open space, other than the minimum area needed to conserve a significant natural feature.

**OVERLAY DISTRICT** (i.e., Airport Overlay, High Rise, Hillside, Etc.): A district established by this Zoning Code to prescribe special regulations to be applied to a site only in combination with a base zone district.

**PAD SITE:** A building or building site located in a retail center that is physically separate from the principal building located within the same center. Pad sites are reserved for freestanding, single commercial uses, and accommodate buildings that are smaller than the principal building. Typical pad site uses include buildings that contain retail sales, restaurants, banks, and automotive services.

**PARKING:** The standing or placement of a vehicle on private or public right of way during the conduct of everyday affairs or business or normal daily activities, provided that such standing or placement occurs within a parking space that conforms to all requirements of the City Code and is not for purposes of assembly, display, sale, repair, or other servicing commonly associated with a motor vehicle.

**PARKING, SHARED:** Off street parking that is shared by one or more adjacent uses that do not have the same peak service times. An example of different peak service times might be an office building with occupancy from eight o'clock (8:00) A.M. to five o'clock (5:00) P.M. weekdays, and a movie theater with peak usage time from five o'clock (5:00) P.M. to ten o'clock (10:00) P.M. weekdays, and on weekends.

**PARKING SPACE, OFF STREET:** An area on a lot and/or within a structure intended for the temporary parking of an automobile.

**PARKWAY:** A type of street defined in the TND street standards.

**PEDESTRIAN ORIENTED DEVELOPMENT:** Development that incorporates safe, attractive, and continuous connections and walkways for travel and access by foot, on a human scale, as an integral part of its overall layout and design.

**PEDESTRIAN PASS THROUGH:** A feature providing unrestricted public pedestrian access through a building or structure or between buildings or structures.

**PERIMETER STREET OR PERIMETER STREET SYSTEM:** The system of public streets that abuts the perimeter of a development site, zone district, or activity center. Perimeter streets provide access to the internal street system, thus providing access and circulation to principal uses located in the interior of the development site, district, or activity center.

**PERMITTED USE:** Any use of land or a structure which is allowed by right in a zone district and subject to the requirements and provisions of this chapter.

**PHASE:** The portion of a plan which is developed as part of a sequence. Phasing is used to time provision of public facilities. Phasing may be specified in a sequential order (1, 2, 3, etc.) or by time period (2001, 2002, etc.).

**PHASING PLAN:** A graphic and narrative document that displays the sequence and/or timing of intended development.

**PHYSICALLY DISABLED:** With respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities, or a record of having such an

impairment or being regarded as having such an impairment.

**PLANNING COMMISSION:** The Colorado Springs City Planning Commission.

**PLAZA:** A community gathering space, sometimes called a square, usually designed with seating areas, and with a variety of ground plane finishes such as hard surfaces, lawn and landscaping. It is often designed as a focal point with an amenity such as a fountain, and it may be bounded on one or more sides by a civic or commercial use in the neighborhood or commercial center.

**PORCH:** A first story structural projection on the front, side or rear of a building, which may or may not have a roof.

**PREAPPLICATION CONFERENCE:** A conference between the applicant for a land use approval or permit and the planning staff. The conference is for the purpose of ensuring a complete submittal and early identification of issues.

**PRINCIPAL USE:** The main or primary purpose for which a tract of land or a structure is designed, arranged, or intended, or for which it may be occupied or maintained under this Zoning Code. All other structures or uses on the same lot which are allowed, incidental, or supplementary to the primary purpose shall be considered accessory uses.

**PUBLIC NOTICE:** The advertisement of an action to be taken by the City which indicates the time, place, and nature of the hearing or action. This may include publication in a newspaper, mailings, meetings, and/or posting of a sign on the subject site.

**PUBLIC REALM:** All areas within an FBZ District which are normally and customarily open to the general public for activities not including those of a single private business, regardless of the ownership of the property, including, but not necessarily limited to, streets, alleys, sidewalks, public plazas, medians, parks, trails, transit facilities, government educational and cultural facilities open to the public and parking facilities generally open to the public.

**RECREATIONAL VEHICLE:** A vehicle used for transient living quarters which can be towed, hauled or driven and is designed for recreational, camping or travel use and including, but not limited to, travel trailers, camper trailers, motor home, pickup camper, watercraft or snowmobiles. (See also definition of Recreational Vehicle, Permanent.)

**RECREATIONAL VEHICLE, PERMANENT:** A single-family dwelling unit, containing complete sanitary facilities, which is principally intended for recreational use but can accommodate long term residential use, and which is no less than seventeen feet (17') in length.

**REDEVELOPMENT:** Development of a site within an older/established contextual subarea of the City, as established and mapped in section [7.3.706](#) of this chapter, where the site was formerly developed and cleared, or that requires the clearance of some or all of existing structures and improvements prior to new construction.

**REGULATING PLAN:** A regulatory zoning plan that has been prepared and legislatively adopted for an area of the City within an FBZ District.

**REVIEW BOARD:** A representative group of interested citizens and/or property owners recognized or appointed by City Council for the purpose of assisting in the implementation of an FBZ regulating plan either in a strictly advisory capacity or with defined decision making authority.

**RIGHT-OF-WAY:** A strip of land, occupied or intended to be occupied by a street, crosswalk,

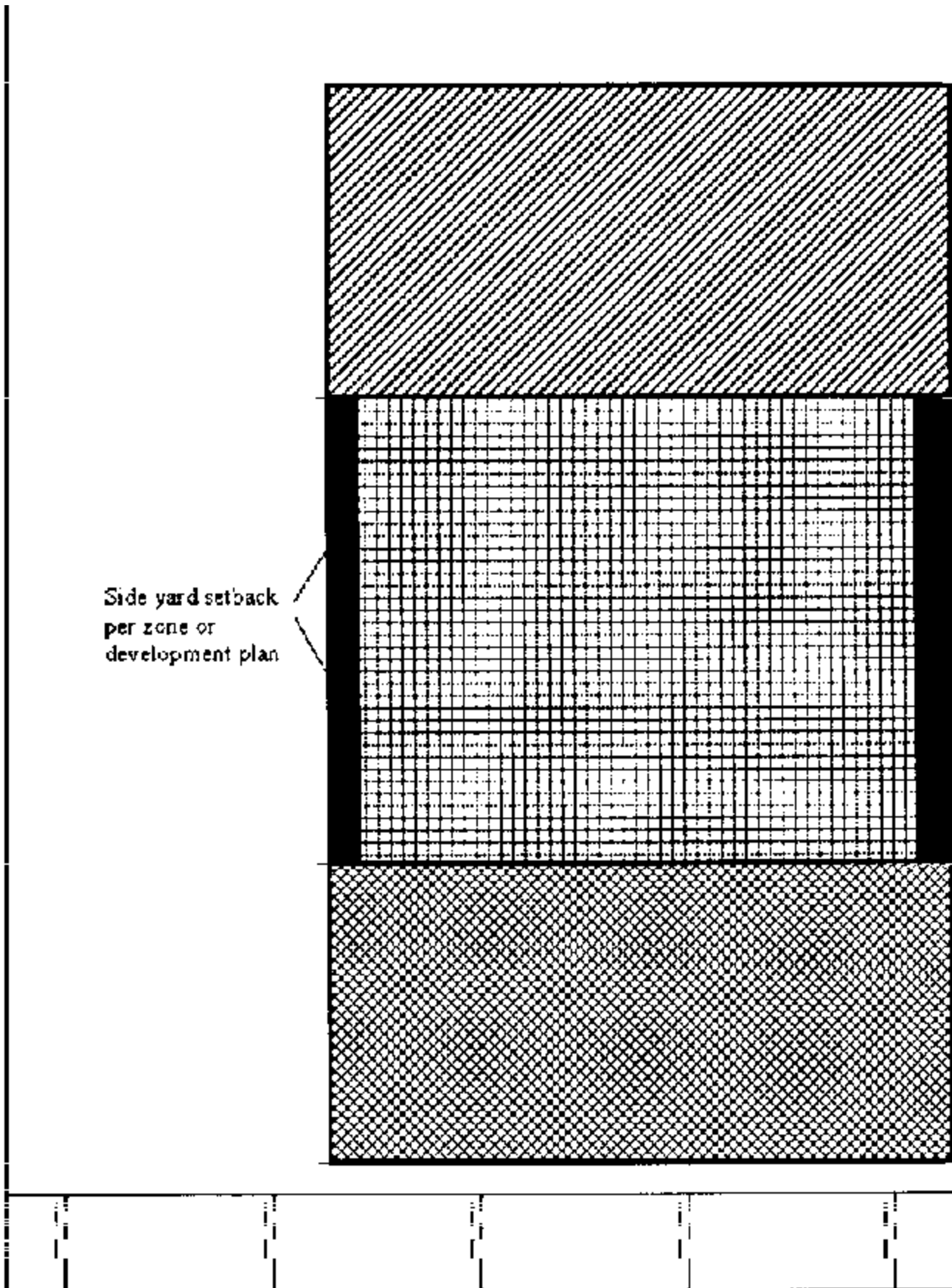
railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, telephone line, shade trees or other similar uses. Rights-of-way are not easements; however, easements can be in rights-of-way.

**SETBACK:** A line within a lot which is parallel to and measured from a corresponding lot line, forming the boundary of a required yard and establishing the minimum distance that a structure, landscaping, parking, or other designated item must be from that lot line.

**Front Yard Setback:** The area from the side property line to side property line starting at the front property line and ending at the minimum front yard setback point as prescribed by the zone district or development plan.

**Rear Yard Setback:** The area from the side property line to side property line starting at the rear property line and ending at the minimum rear yard setback point as prescribed by the zone district or development plan.

**Side Yard Setback:** The area located between the minimum front yard setback and the minimum rear yard setback that runs parallel to the side property lines. The width of the side yard setback shall be measured from the side property line to a point prescribed by the zone district or development plan.



Rear  
setback  
zone  
development  
plan

Side yard setback  
per zone or  
development plan

Side yard  
setback  
per zone or  
development  
plan

Front  
setback  
zone or  
development  
plan

Street

**SHARED PARKING AND CROSS ACCESS AGREEMENT:** An agreement filed with the County Clerk and Recorder's Office that describes and defines the shared use of parking by the users of two (2) or more properties characterized by differing peak user times and/or days. The agreement shall identify the properties involved and the owner(s), maintenance and operation responsibilities, the projected uses and the associated parking formulas, and the peak parking times and days. Also, the agreement shall guarantee cross access to associated entryways, drives, aisles, maneuvering areas and parking areas, and shall reference the development plan that displays the referenced information.

**SHORT TERM RENTAL UNIT:** A residential dwelling unit, or portion of such a unit, that is rented for less than thirty (30) days at a time, with the exception of dwelling units owned by the Federal government, the State or the City, or any of their agencies, or facilities licensed by the State as health care facilities.

**SIGNIFICANT NATURAL FEATURES:** Ridgelines, bluffs, rock outcroppings, view corridors, foothills, mountain backdrops, unique vegetation, floodplains, streams, surface water, natural drainageways and wildlife habitats which contribute to the attractiveness of the community.

**SIGNIFICANT VEGETATION:** Vegetation that is indigenous (i.e., pine trees, mountain mahogany, scrub oak and native grasses) and that, through its location on the lot and/or size and maturity, will preserve the hillside character.

**SITE PLAN:** An accurate graphic representation drawn to scale showing proposed uses and structures of a proposed development. The site plan may include, but not be limited to: specific land uses, lot lines, buildings, square footage, locations and footprints, setbacks, internal circulation, parking areas and spaces, points of access, landscaping, contours, easements, public utilities and facilities and land dedication areas. The site plan shall contain the information required in the application provided by the Department.

**SNOWMOBILE:** A motor vehicle with a continuous tread and runner type steering device used primarily for over snow travel.

**STOOP:** A platform or entrance stairway adjacent to a walkway providing pedestrian access to a building.

**STORAGE:** The placement of goods, materials, and/or personal property in a particular place or space for more than a twenty four (24) hour period.

**STREETSCAPE:** The area that lies between the street curb and the facade of the adjacent buildings. Its role is to define the distinguishing character of a particular street, including landscaping, tree lawns, sidewalks and other surfacing, lighting, street furniture and signage.

**STRUCTURALLY ALTERED:** Any change which would tend to prolong the life of the supporting elements of a building or structure, such as bearing walls, columns, beams or girders.

**STRUCTURE:** Anything constructed or erected which is permanently located on the ground.

**SUBDIVISION:** For zoning purposes as covered by this Zoning Code, either an act of subdividing or partitioning land in conformance with this chapter, or an area or tract of land that has been subdivided or partitioned. See [article 7 of this chapter](#) for more information.

**TANGIBLE PERSONAL PROPERTY:** Personal property which may be seen, weighed, measured, felt or touched or is in any manner perceptible to the senses.

**TEMPORARY USES:** Those land uses and structures which are needed, or are in place, for only specific periods of time.

**THEME:** A broad development concept which is used to outline the means and objectives of a master plan and is a basis for review.

**TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND):** A pedestrian oriented residential neighborhood, with variable lot widths and sizes, a mix of dwelling unit types, on street parking, and nonresidential uses generally located in a neighborhood commercial center along a main street or fronting on a plaza. The "ideal size" of the neighborhood is defined as a five (5) to ten (10) minute walk from the neighborhood center.

**TRAFFIC ENGINEER:** The City Traffic Engineer or the Engineer's designee.

**TRAIL:** Linear spaces dedicated to nonmotorized users such as pedestrians, bicyclists and equestrians. Limited motorized uses may be allowed for maintenance, security or two (2) wheeled recreational vehicles. Trails may be located within parks or open spaces or by themselves.

**TRAILER:** A vehicle designed to transport passengers and/or freight and constructed with integral wheels to make it mobile and/or towable by a motor vehicle.

**TRANSITIONS:** Generally, an array of tools and techniques designed to achieve compatibility between adjoining land uses that may differ by type and intensity, including, but not limited to, the following techniques:

**Landscape Buffer And Screening Transitions:** The use of landscaping, berms, fences, walls, or any combination of these, to buffer and screen a more intense land use from an adjacent, less intense land use.

**Site And Building Transitions:** Designing and adapting the form and mass of a building to take into consideration neighboring buildings and land uses.

**Transition Uses:** A land use, as defined and described in section [7.3.710](#) of this chapter, that may be appropriate to site between different land uses when the transition use is relatively more compatible with lesser intensity adjoining uses.

**TRANSPARENT:** Relates to glass in wall openings such as windows, which allow views into and out of a building. Windows or glazed areas that incorporate glass that is translucent or opaque shall not be considered transparent.

**TREE LAWN:** An area of the street right-of-way between the curb and the sidewalk, planted with landscaping.

**TRUCK:** A motor vehicle designed primarily to transport freight during the conduct of business.

**UPSLOPE LOT:** A parcel of land where the general terrain of the land increases in elevation away from the street frontage.

**VARIANCE:** A waiver to this chapter in the form of a nonuse variance or use variance.

VARIANCE, NONUSE: Authorization to deviate from development standards of this Code. Examples of standards that may be the subject of nonuse variances include the building height, lot coverage, required setbacks, lot area, lot width, the number or size of required off street parking spaces.

VARIANCE, USE: Authorization for a use that is not allowed in the zone district.

VEHICLE: Any device which is designed for or capable of self-propulsion or being otherwise moved from place to place upon wheels or endless tracks.

VEHICLE STORAGE: The standing or placement of a vehicle, such vehicle being usable or potentially usable, for assembly, display, sale or repair or other servicing commonly associated with a vehicle, provided that such standing or placement occurs within an area that conforms to all requirements of this Code and the vehicle does not constitute "junk" as defined elsewhere in this section and is not considered parking.

VERTICAL MIXED USE BUILDING: A multi-story building containing a vertical mix of two (2) or more principal uses.

VIEW CORRIDOR: The line of sight identified as to height, width and distance of features (usually natural) of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewer's attention.

WALKWAY OR PEDESTRIAN WALKWAY: An on site path for pedestrians or for pedestrians and bicyclists that is not part of the public right-of-way, and is not a public (dedicated) sidewalk or public (dedicated) trail. "Walkways" as defined herein include private sidewalks. Walkways typically combine to form a network providing internal pedestrian and bicyclist access and circulation on a development site, and typically connect to the public sidewalk system.

WATERCRAFT: A vehicle that is used for water travel or pleasure, either mounted on a boat trailer or unmounted.

WRAPPED USE: A retail, service or other commercial use type that occupies the ground floor of a structure, and extends on both sides of a corner of a structure.

YARD: See definition of Setback.

ZONE DISTRICT: A delineated area in the City within which all land and structures are governed by a specific group of use and development standards which are set forth in this Zoning Code. Also referred to as a base zone district. (Ord. 80-131; Ord. 80-161; Ord. 81-149; Ord. 82-47; Ord. 82-97; Ord. 82-115; Ord. 83-45; Ord. 83-187; Ord. 83-217; Ord. 83-229; Ord. 83-252; Ord. 84-28; Ord. 84-159; Ord. 84-326; Ord. 85-43; Ord. 85-272; Ord. 86-66; Ord. 86-67; Ord. 86-119; Ord. 86-124; Ord. 86-229; Ord. 87-195; Ord. 88-84; Ord. 88-190; Ord. 89-3; Ord. 89-42; Ord. 91-16; Ord. 91-17; Ord. 91-30; Ord. 94-23; Ord. 94-107; Ord. 96-27; Ord. 96-81; Ord. 97-110; Ord. 01-42; Ord. 02-153; Ord. 03-16; Ord. 03-74; Ord. 03-127; Ord. 03-157; Ord. 03-216; per correspondence dated 2-20-2004; Ord. 05-102; Ord. 09-50; Ord. 09-69; Ord. 09-80; Ord. 11-19; Ord. 12-65; Ord. 16-19; Ord. 17-2; Ord. 18-112)

## **PART 3 LAND USE TYPES AND CLASSIFICATIONS**



**7.2.301: PURPOSE:**

**7.2.302: DEFINITIONS OF USE TYPES:**

**7.2.301: PURPOSE:**   

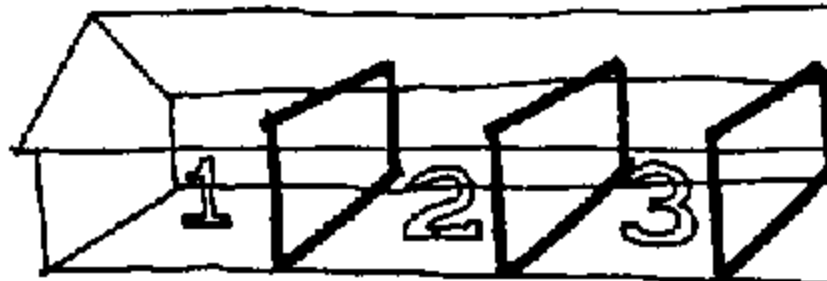
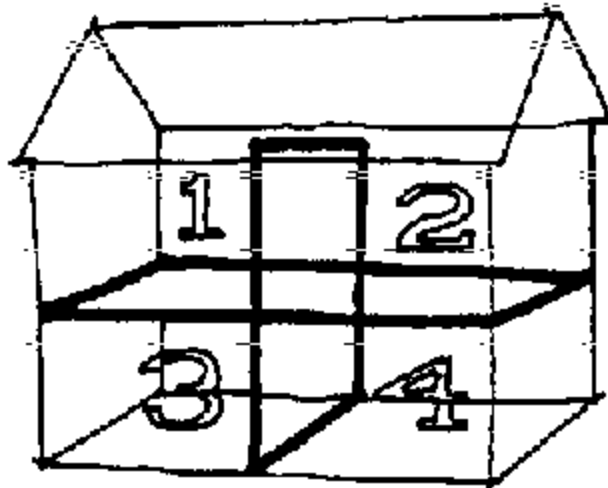
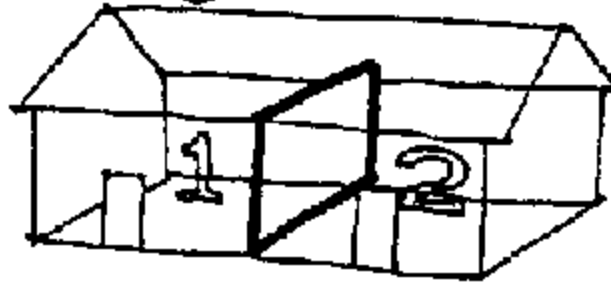
The purpose of this part is to establish a classification system for land uses and a consistent set of terms defining uses allowed as principal permitted, conditional or accessory uses within various zone districts. This classification system is used in the tables in this Zoning Code to identify appropriate locations for land uses. (Ord. 94-107; Ord. 01-42)

**7.2.302: DEFINITIONS OF USE TYPES:**   

A. Residential Use Types: Residential use types include uses providing wholly or primarily permanent living accommodations.

1. ATTACHED DWELLING UNIT: A dwelling unit having one or more walls or portions of a wall in common with another dwelling unit. This definition shall include terms such as duplex, patio home, townhouse, condominium, apartment and similar terms.

## Attached Dwelling Unit



2. ACCESSORY DWELLING UNIT: A dwelling unit allowed in specific zones that is subordinate to the principal residential unit on the lot and which is located upon the same lot as the principal unit. An accessory dwelling unit is under the same ownership as the principal unit and it may be used for either residential or home occupation uses, subject to standard City restrictions related to home occupations.

3. DORMITORY, FRATERNITY OR SORORITY HOUSE: A building which may have the residential capacity for more than five (5) adults where meals and lodging are provided.
4. HUMAN SERVICE ESTABLISHMENTS: Establishments that provide temporary or permanent lodging, care or treatment to persons who may be unrelated to each other, not including domestic, supervisory or medical staff providing services on the premises and intended to provide the residents an opportunity to live in as normal a residential environment as possible.

The definitions of developmentally disabled, mental illness and elderly are those established by Colorado Revised Statutes section 31-23-303. The definition of physically disabled as a physical handicap as established by 42 USC 3602 section 501. The definition of autism and drug and alcohol treatment as a physical or mental impairment as established by 42 USC sections 3601 through 3619.

- a. Human Service Establishment Not Requiring A Colorado Springs Human Service Establishment Permit: A Colorado State licensed establishment composed of three (3) to five (5) persons, not including domestic, supervisory or medical staff which provide services on premises, providing twenty four (24) hour lodging, care and treatment, on either a permanent or temporary basis. The establishment may provide for persons who may have a developmental, physical, emotional or mental disability or impaired capacity for independent living, youth with emotional, behavioral or social problems, elderly or persons who are terminally ill with a life expectancy of less than six (6) months. This type of establishment is classified as a "family" in accord with the definition provided in this chapter and regulated as a single-family home.
- b. Human Service Home: A Colorado State licensed establishment composed of six (6) to eight (8) persons, not including domestic, supervisory or medical staff which provides services on premises, providing twenty four (24) hour lodging, care and treatment on either a permanent or temporary basis. A human service home may provide for persons who are developmentally or physically disabled, mentally ill, elderly or terminally ill with a life expectancy of less than six (6) months. A human service home is treated as a "family" and meets the definition of a single-family home.
- c. Human Service Residence: A Colorado State licensed establishment composed of six (6) to eight (8) persons, not including domestic, supervisory or medical staff, providing services on premises, which provides twenty four (24) hour lodging, care and treatment for persons under the age of eighteen (18) years of age or court appointed up to the age of twenty one (21) years of age with emotional, behavioral or social problems who are determined to be dependent or neglected on either a permanent or temporary basis.
- d. Family Care Home: A Colorado State licensed establishment composed of a minimum of two (2) to a maximum of four (4) foster children, under the age of eighteen (18) years of age, for regular full time care on a twenty four (24) hour basis in addition to any and all existing family members.
- e. Large Family Care Home: A Colorado State licensed establishment composed of a minimum of five (5) but not more than eleven (11) foster children, under the age of eighteen (18) years of age, for regular full time care on a twenty four (24) hour basis in addition to any and all existing family members.
- f. Hospice: A Colorado State licensed establishment composed of nine (9) or more terminally ill persons with a life expectancy of less than six (6) months, not including domestic, supervisory or medical staff, which provides a centrally administered program of palliative, supportive and interdisciplinary team which provides services of physical, psychological, spiritual and sociological

care for terminally ill individuals with a continuum of inpatient care available on a twenty four (24) hour basis.

- g. Residential Childcare Facility: In accord with Colorado Revised Statutes 26-6-102(8), a Colorado State licensed establishment that provides twenty four (24) hour care and treatment for five (5) or more children, up to the age of eighteen (18) years of age or court appointed up to the age of twenty one (21) years of age and operated under private, public, or nonprofit sponsorship. A residential childcare facility may include community based residential childcare facilities, shelter facilities, and therapeutic residential childcare facilities as defined by the State of Colorado and psychiatric residential treatment facilities as defined in Colorado Revised Statutes 25.5-4-103(19.5).
  - h. Domestic Violence Safe House: A residential operation whose primary function is the provision of a confidential residence that provides a safe haven for persons who have been victimized by physical, emotional or mental abuse for purposes of rehabilitation or special care. The safe house may permit housing for both single persons as well as individuals with children.
  - i. Family Support Residence: A residential operation where lodging, meals, and counseling services are provided to six (6) or more persons who are members of families that have other family members that have been diagnosed with a terminal illness or an illness requiring long term hospital care. The primary concern of the facility is to provide support to family members (i.e., Ronald McDonald House).
  - j. Human Service Facility: A Colorado State licensed establishment composed of nine (9) or more persons, not including domestic, supervisory or medical staff, providing twenty four (24) hour lodging, care and treatment on either a permanent or temporary basis. Human service facilities may provide for persons who are physically or developmentally disabled, mentally ill, elderly, youth or individuals in assisted living, short term convalescence, rehabilitative or long term care.
  - k. Drug And Alcohol Treatment Facility: An establishment that may be Colorado State licensed or certified by the appropriate State agency that provides twenty four (24) hour care, treatment, rehabilitation and counseling for persons with alcohol, narcotic or substance abuse or a combination thereof and operated under private, public or nonprofit sponsorship.
  - l. Human Service Shelter: A residential operation which provides temporary group lodging and supportive services to persons in need due to family medical circumstances, economic circumstances or social difficulties. A human service shelter is generally not licensed by the State of Colorado. A shelter may include accessory support services, i.e., medical, dental or psychological care, distribution of food or clothing and hot meals to the clients of the facility. A temporary shelter operated by a religious institution within its principal facility is considered an accessory use of the principal religious institution.
  - m. Detoxification Center: A convalescent establishment which provides twenty four (24) hour medical supervision, lodging, and meals to individuals who need help to remove the effects of alcohol or drugs.
5. MOBILE HOME: Any wheeled vehicle, exceeding either eight feet (8') in width or thirty two feet (32') in length, including towing gear and bumpers, without motor power, built on a permanent chassis designed for long term residential occupancy or temporary office use and containing complete electrical, plumbing and sanitary facilities and designed to be installed in permanent or semipermanent manner without a permanent foundation, which is capable of being drawn over public highways by a motor vehicle. If a mobile home meets the criteria of a manufactured home, it shall not be considered a mobile home.

6. **MOBILE HOME PARK:** Any tract of land held under single ownership or unified control upon which two (2) or more mobile homes, occupied for residential purposes, are located and for which a charge is made for such accommodations, and shall include any structures used or intended for use as a part of such park.
7. **MULTI-FAMILY DWELLING:** One or more buildings each consisting of three (3) or more dwelling units in which each unit is used exclusively for occupancy by one family. The term includes townhouses, condominiums and apartments.
  - a. **Apartment:** A specific type of multi-family dwelling use consisting of three (3) or more attached dwelling units, each occupied by one family, separated by a combination of vertical and horizontal walls. This may include a studio or efficiency.
  - b. **Condominium:** An attached single-family residential structure with each unit being separately owned; however, all land within the project is community owned.
  - c. **Townhouse:** A type of building consisting of three (3) or more attached dwelling units, each occupied by one family and separated by vertical sidewalls extending from foundation to roof without openings. Each townhouse unit must have at least two (2) exposed exterior walls.
  - d. **Multi-Family Dwelling Above First Floor:** A type of multi-family dwelling use consisting of three (3) or more apartments or condominiums located in a vertical MU building that is occupied on the first (ground) floor by a principal use other than a residential use.
8. **RETIREMENT HOME:** A residential facility other than a hotel, where for compensation either paid directly or indirectly, lodging and meals are provided for the elderly (over 60 years). No continuous medical or personal care is provided by the operators of the home.
9. **ROOMING OR BOARDING HOUSE:** A residential dwelling, other than a hotel, where, for compensation, lodging and meals are provided for longer than a temporary period of time for not more than fifteen (15) roomers in addition to members of the family. No continuous medical or personal care is provided by the operators of the home. This land use type does not include the term bed and breakfast inn.
10. **SINGLE-FAMILY DWELLING DETACHED:** One dwelling unit located on one site, with no physical or structural connection to any other dwelling unit and used exclusively for occupancy by one family.
  - a. **Manufactured Home:** A one-family dwelling unit which is partially or entirely manufactured in a factory, is not less than twenty four feet (24') in width and thirty six feet (36') in length, is installed on an engineered permanent foundation, has brick, wood or cosmetically equivalent exterior siding, a pitched roof, and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq., as amended, and is built for the Colorado climate and snow loads according to the Department of Housing and Urban Development standards established under the provisions of 42 USC 5401 et seq.
11. **STUDIO OR EFFICIENCY:** A dwelling unit consisting of not more than one habitable room together with kitchen facilities and bath facilities.
12. **TWO-FAMILY DWELLING:** A single building with no physical or structural connection to any other building which consists of two (2) attached dwelling units with each unit used exclusively for occupancy by one family. Often referred to as a duplex.

B. Office Use Types: Office use types consist of uses providing for administration, professional services, and accessory activities excluding manufacturing and research facilities.

1. CALL CENTER: An establishment whose primary purpose is to provide individual work stations for employees engaged in calling persons that may provide technical or product support, solicit retail or service related sales.
2. FINANCIAL SERVICES: Provision of financial and banking services to consumers or clients and drive-in services to consumers are provided on the site. Typical uses include banks, savings and loan associations, savings banks, credit unions and loan companies.
3. GENERAL OFFICES: Use of a site for business, professional, or administrative offices excluding medical offices. General offices are characterized by a low proportion of vehicle trips attributable to visitors or clients in relation to employees. Typical uses include real estate, insurance, management, travel, or other similar business offices; organization and association offices; law, architectural, engineering, accounting, telemarketing or other professional offices.
4. MEDICAL OFFICES, MEDICAL LABS AND CLINICS: Use of a site for facilities which provide medical, psychiatric or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees or visitors. Medical offices, labs and clinics are operated by doctors, dentists, or other physical or mental healthcare practitioners licensed for practice by the State of Colorado and are characterized by a high proportion of vehicle trips attributable to visitors or clients in relation to employees.

C. Commercial Use Types: Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

1. AGRICULTURAL SALES AND SERVICE: Establishments engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, feed and grain stores, and tree service firms.
2. AUTOMOTIVE AND EQUIPMENT SERVICES: Establishments primarily engaged in sales or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:
  - a. Automotive Rentals: An establishment consisting of buildings and yards used for display and rental of automobiles, motorcycles, noncommercial trucks or trailers with a GVWR of fifteen thousand (15,000) pounds or less, including incidental parking and servicing of vehicles available for rent or lease. Typical uses include auto rental agencies, trailer rental agencies, and taxicab parking and dispatching.
  - b. Automotive Repair Garage: An establishment for repair of automobiles, noncommercial trucks or motorcycles with a GVWR of fifteen thousand (15,000) pounds or less, including the sale, installation, maintenance and servicing of equipment and parts and the accessory storage or parking of vehicles which are awaiting service or pick up, but excluding the storage of junk vehicles. Typical uses include auto repair garages in which major auto repair and similar repair and service activities are performed, but exclude dismantling, salvage, or body and fender repair services.

- c. Automotive Sales: An establishment consisting of buildings and yards used for display and sale or rental of automobiles, noncommercial trucks, motorcycles, recreational vehicles or boats with a GVWR of fifteen thousand (15,000) pounds or less, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships and motorcycle dealerships.
  - d. Automotive Storage Yard: Any lot, plot, parcel of land or contiguous parcels of land used for the purpose of storing operable automobiles, trucks, motorcycles, recreational vehicles, or boats. This use shall not include vehicle dismantling or junkyards.
  - e. Automotive Wash: An establishment for washing and cleaning automobiles and related light equipment. Typical uses include car washes in which all activities are completely enclosed or car washes in which some activities are outside.
  - f. Auto Service: An establishment which provides fuel and/or minor maintenance or repair to motor vehicles. Typical uses include muffler shops, tire sales and installation, wheel and brake shops and other similar repair service activities.
  - g. Body And Fender Repair Services: Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
  - h. Construction Equipment Business: An operation which includes sales, a vehicle storage yard, and/or a repair garage for construction equipment.
  - i. Equipment Rental And Sales: An establishment consisting of buildings and yards used for the display, sales or rental of trucks, recreational vehicles, boats, trailers, tractors, construction equipment, agricultural implements, mobile homes, or similar heavy equipment with a GVWR of fifteen thousand one (15,001) pounds or more including incidental storage, maintenance, and servicing. Typical uses include recreational, boat and trailer dealerships, truck dealerships, construction equipment dealerships, and mobile home sale establishments.
  - j. Equipment Repair Services: An establishment for the repair of trucks, recreational vehicles, boats, tractors, construction equipment, agricultural implements, or similar heavy equipment with a GVWR of fifteen thousand one (15,001) pounds or more, including the sale, installation, maintenance and servicing of equipment and parts and the accessory storage or parking of vehicles which are awaiting service or pick up, but excluding the storage of junk vehicles. Typical uses include truck repair garages, recreational vehicle and boat repair garages, tractor and farm implement repair services, machine shops, and tire recapping facilities, but exclude dismantling, salvage, or body and fender repair services.
  - k. Equipment Storage Yard: Any lot, plot, parcel of land or contiguous parcels of land used for the purpose of storing operable or impounded trucks, tractors, construction equipment, agricultural implements, or similar heavy equipment with a GVWR of fifteen thousand one (15,001) pounds or more. This use shall not include vehicle dismantling or junkyards.
3. BAR: A use engaged in the preparation and retail sale of alcoholic beverages, alcoholic liquor or fermented malt beverages as defined by chapter 2, article 5, part 1 of this Code, for consumption on the premises including taverns, bars, cocktail lounges, and similar uses other than a "restaurant" as that term is defined in this part.

4. **BED AND BREAKFAST INN:** A dwelling unit that provides temporary accommodations and breakfast to overnight guests for a fee with up to fifteen (15) guestrooms or suites.
5. **BUILDING MAINTENANCE SERVICES:** Establishments primarily engaged in the provision of maintenance and custodial services to businesses and individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.
6. **BUSINESS OFFICE SUPPORT SERVICES:** Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, photography studios, and convenience printing and copying.
7. **BUSINESS PARK:** One or more buildings adaptable to a combination of office, light storage, distribution, and showroom uses, where a minimum of twenty five percent (25%) and a maximum of sixty five percent (65%) of the floor area is used for office space.
8. **CAMPGROUND:** Facilities providing camping or parking uses and incidental services for travelers in recreational vehicles or tents.
9. **COMMERCIAL CENTER:** A grouping of three (3) or more attached commercial, office and/or civic uses developed and maintained under unified control. A majority of the establishments in a commercial center share common walls and parking areas. Freestanding buildings may be included as part of a commercial center.
10. **COMMUNICATION SERVICES:** Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic mechanisms but excludes those classified as major utility services. Facilities that broadcast exclusively over the internet and have no live broadcasts are not included within this definition. Typical uses include television studios, radio stations, telecommunication service centers, cable television facilities, or film and sound recording facilities.
11. **CONSTRUCTION SALES AND SERVICES:** Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures. This use type excludes those uses classified under automotive and equipment services. Typical uses include home improvement stores, building materials stores, or tool and equipment rental or sales.
12. **CONSUMER CONVENIENCE SERVICES:** Establishments which provide services, primarily to individuals, of a convenient and limited nature, often in access controlled facilities which make twenty four (24) hour operation possible. Typical uses include the renting of private postal and safety deposit boxes to individuals and automated banking machines.
13. **CONSUMER REPAIR SERVICES:** Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment services use types. Typical uses include appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.
14. **DATA CENTER:** A facility that houses large capacity data storage servers which may contain minimal office space necessary for employees to maintain and operate the facility.



15. **EXTERMINATING SERVICES:** Services related to the eradication and control of rodents, insects, and other pests with incidental enclosed storage.
16. **FOOD SALES:** Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
- a. **Convenience Food Sales:** An establishment generally occupying facilities of ten thousand (10,000) square feet or less which sells everyday goods and services and may include ready to eat food products, groceries, over the counter drugs, sundries; the use may or may not include the retail dispensing or sale of gasoline or other fuel products. Typical uses include convenience grocery stores.
- b. **General Food Sales:** Establishments selling a wide variety of commodities occupying facilities larger than ten thousand (10,000) square feet. Typical uses include supermarkets.
- c. **Specialty Food Sales:** Establishments occupying facilities of ten thousand (10,000) square feet or less and characterized by sales of specialty foods or a limited variety of general items. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores and coffee kiosks.
17. **FUNERAL SERVICES:** Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. A crematory may be allowed as an accessory use in accord with section [7.3.203](#) of this chapter. Typical uses include funeral homes or mortuaries.
18. **HOOKAH BAR:** An establishment providing for the sale of on site consumption of smoked flavored tobacco or herbs.
19. **HOTEL/MOTEL:** An establishment which provides guestrooms or suites for the temporary occupancy of more than fifteen (15) individuals. Accessory uses can include a restaurant and meeting facilities.
20. **KENNELS:** The primary uses of this category are dog daycare facilities and kennels. Other uses include veterinary service, retail sales, grooming, training, boarding, breeding and care services for dogs, cats and similar small animals on the premises on which more than four (4) dogs and cats over four (4) months of age are kept and maintained with or without charge. Typical uses may include boarding kennels, pet motels and dog daycares.
- a. **Indoor Only:** Services are completely contained within a building.
- b. **Indoor And Outdoor:** Services provided include outdoor exercise space.
- c. **Animal Shelters:** Buildings or structures in which animals may be boarded, impounded, cared for or sold as pets and may include on site outdoor exercise space and facilities for disposing of lost, stray, unwanted, dead or injured animals.
21. **LIQUOR SALES:** Establishments engaged in retail sale for off premises consumption of alcoholic liquors as defined in chapter 2, article 5, part 1 of this Code. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off site consumption.

22. **MEDICAL MARIJUANA FACILITY (MMJ Facility):** An establishment licensed by the City of Colorado Springs and the State of Colorado for the growth, cultivation, acquisition, manufacture, storage, dispensing or sale of medical marijuana or medical marijuana infused products. The following are considered medical marijuana facility use types:
- a. **Medical Marijuana Center (MMC):** An establishment for the storage, dispensing and/or sale of medical marijuana or medical marijuana infused products.
  - b. **Medical Marijuana Infused Products Manufacturer (MMIPM):** An establishment for the manufacture and storage of medical marijuana infused products. MMIPMs shall be classified by the Manager, in consultation with the City Fire Marshal, in accord with the following land use types:
    - (1) **Medical Marijuana Infused Products Manufacturer - Nonhazardous (MMIPM - NH):** Any MMIPM location that does not exceed reasonable fire and life safety risks, or does not otherwise meet the definition of a MMIPM - HZ. Examples of MMIPM - NH land use classifications may include, but are not limited to, the use of super/subcritical CO<sub>2</sub> extraction processes, cooking or baking facilities.
    - (2) **Medical Marijuana Infused Products Manufacturer - Hazardous (MMIPM - HZ):** Any MMIPM location that presents fire and life safety risks by utilizing oil extraction processes through the use of pressurized flammable gas, flammable or combustible liquids, and other processes. Examples of MMIPM - HZ land use classifications may include, but are not limited to, the use of butane, propane, acetone, naphtha, alcohol, etc., during the manufacturing process.
  - c. **Optional Premises Cultivation Operation (OPCO):** An establishment for the growth, cultivation, and storage of medical marijuana.
23. **MINIWAREHOUSES:** Buildings designed primarily for the storage of household items and inventory of small commercial businesses where storage units are individually leased or rented, where access to storage units is infrequent and where no utilities are provided except for the service of a manager's apartment and for lighting of individual storage units.
24. **MIXED COMMERCIAL-RESIDENTIAL USES:** A combination of commercial and residential uses on one property in a non-MU zone district.
25. **MIXED OFFICE - RESIDENTIAL USE:** A combination of office and residential uses on one property or within one building in a non-MU zone district.
26. **PERSONAL IMPROVEMENT SERVICES:** Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
27. **PERSONAL CONSUMER SERVICES:** Establishments primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry cleaning stations serving individuals and households.
28. **PET SERVICES:** Primary use of this category is sales and grooming of animals which includes veterinary service, retail sales, incidental pet health services, training and grooming of dogs, cats, birds, fish and similar small animals customarily used as household pets. All operations must be located totally within a building. Typical uses include pet stores, veterinary services, dog bathing and

clipping salons, pet grooming shops, but exclude uses for dog daycares, kennels, livestock and large animals.

29. PHARMACY: An establishment where medicines, drugs and other items incidental to the science of the pharmaceutical profession are dispensed.

30. RECREATION, COMMERCIAL: Private businesses or organizations, which may or may not be commercial in nature, primarily engaged in the provision of sports, recreation or entertainment for participants or spectators. The following are commercial recreation use types:

a. Indoor Entertainment: Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls, and dance halls.

b. Indoor Sports And Recreation: Predominantly participant uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, mechanical and electronic amusement galleries, indoor racquetball, swimming, and/or tennis facilities.

c. Outdoor Entertainment: Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include sports arenas, racing facilities, and amusement parks.

d. Outdoor Sports And Recreation: Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, commercial golf courses, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, and motorized model airplane flying facilities.

31. RETAIL SERVICES (General): Sale, or rental with incidental service, of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

a. Large Retail Establishment: Commercial retail sales and services, but also including restaurants and pharmacies, containing fifty thousand (50,000) square feet of gross floor area or more, and typically housed in a single use, single-story building.

b. Neighborhood Serving Retail: Small scale, general retail services intended to serve a market comprised primarily of immediately adjacent neighborhoods, typically with a service area radius of no more than one-half ( $1/2$ ) to two (2) miles. Neighborhood serving retail uses are typically provided in individual stores and spaces containing no more than five thousand (5,000) square feet of gross floor area. Two (2) or more neighborhood serving retail uses may be located in the same building.

32. RESTAURANT: An establishment where food and drink is prepared, served and consumed either on premises (inside or outside), taken out, or delivered. It may include the sale of alcoholic beverages when conducted as a secondary feature of the use and producing less than fifty percent (50%) of the establishment's gross income. The bar area is an area of the restaurant where the primary business is the sale and consumption of alcohol.

- a. Sit Down Restaurant: A restaurant where food and drink is usually prepared to order and consumed on premises, but may be taken out. It principally supplies food and beverages in nondisposable containers. They are characterized by low automobile and pedestrian volumes with no drive-through facilities. Typically they include waiter or cafeteria service and longer stays by customers. May be located either in separate buildings or in line tenant spaces.
  - b. Quick Serve Restaurant: A restaurant where food and drink is usually prepared to order, orders are taken at a counter, food is picked up by the customer or served by waitstaff, and may either be consumed on premises, taken out, or delivered. It may supply food and beverages in either disposable or nondisposable containers. They are characterized by moderate automobile and pedestrian volumes with no drive-through facilities. Typically they include self-service or minimal waiter service, and moderate stays by customers. They are usually located in line tenant spaces.
  - c. Drive-Up Or Fast Food Restaurant: A restaurant where food and drink is usually previously or rapidly prepared, food is served directly to the customer, and is ready to be consumed on the premises or taken out. It principally supplies food and beverages in disposable containers. They are characterized by high automobile and pedestrian volumes with drive-through facilities. Typically they include self-service and short stays by customers. They are usually located in separate freestanding buildings.
33. SURPLUS SALES: Businesses engaged in the sale of used or new items, sometimes involving regular, periodic outdoor display of merchandise for sale. Typical uses include either indoor or outdoor flea markets and factory outlets or discount businesses with outdoor display.
34. TEEN CLUB: Any club, business or establishment whose primary purpose is to provide an ongoing place of entertainment, to include, but not be limited to, nightclubs, discotheques or such similar establishments, either with or without payment for persons between the ages of thirteen (13) and seventeen (17) on a full time or occasional basis.
35. VETERINARY SERVICES: An establishment for the medical treatment and care of animals. There are two (2) types of veterinary service; both allow overnight boarding of animals if directly related to a veterinarian procedure:
- a. Veterinary services and clinics for dogs, cats, and small animals which are required to be in completely enclosed buildings; and
  - b. Veterinary hospitals for livestock and large animals.
36. YOUNG ADULT CLUB: Any club, business or establishment whose primary purpose is to provide an ongoing place of entertainment, to include, but not be limited to, discotheques, nightclubs or such similar establishments, either with or without payment for persons seventeen (17) years of age or older on a full time or occasional basis.
- D. Civic Use Types: Civic use types include the performance of educational, recreational, cultural, medical, protective, utility, governmental, and other uses which are strongly vested with public social importance.
1. ADMINISTRATIVE AND SAFETY SERVICES: Governmental offices providing administrative, clerical or public contact services, public safety and emergency services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses

include Federal, State, County, and City offices along with police and fire protection services and emergency medical and ambulance services.

2. **CEMETERY:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes. The following uses may be located within a cemetery when operated in conjunction with and within the boundary of such cemetery: columbarium, mausoleum, mortuary, funeral services and crematory.
3. **CLUB (Membership):** A use providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests, excluding uses with the chief activity being a service customarily carried on as a business.
  - a. **Recreational Clubs:** A club providing indoor and/or outdoor athletic facilities, with or without social facilities. Typical uses include health clubs, country clubs, nonprofit recreation or community centers.
  - b. **Social Clubs:** A club providing social or meeting facilities. Typical uses include private social clubs and fraternal organizations. A "marijuana consumption club" as defined in section [2.2.202](#) of this Code shall not be considered a social club under this Zoning Code.
4. **CREMATORY SERVICES:** An establishment exclusively providing services for the incineration of human or animal corpses.
5. **CULTURAL SERVICES:** A library, museum, planetarium, performing art venue or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.
6. **DAYCARE SERVICES:** A Colorado State licensed facility which provides care to children or adults, who may or may not be related to the owner, operator, or manager, and such facility is operated with or without a stated educational purpose or compensation for the care of those persons.
  - a. A daycare for children may include a daycare home, large daycare home, daycare center, day nursery, nursery school, kindergarten, preschool, play group, daycare center for handicapped and mentally or emotionally disordered individuals. The term shall not include any facility known as a family care home or a large family care home. Occasional twenty four (24) hour emergency care may be provided.
  - b. A daycare for adults (age 21 and above) may include a daycare home, large daycare home, daycare center or daycare center for handicapped or mentally or emotionally disordered individuals. Occasional twenty four (24) hour emergency care may be provided.
7. **DETENTION FACILITIES:** A public or private use which provides housing and care for individuals legally confined and is designed to isolate those individuals from a surrounding community.
8. **EDUCATIONAL INSTITUTION:** Education shall mean public schools, nonpublic schools, schools administered and operated by the State, colleges or universities, and proprietary schools. The following definitions shall apply to the various types of educational institutions:
  - a. **Charter School:** Those schools approved as charter schools under the State Schools Act.

- b. College And University: An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization and under charter or license from the State of Colorado.
  - c. Nonpublic Schools: All private, parochial, and independent schools which provide education of compulsory school age pupils comparable to that provided in the public schools of the State. The term "comparable" shall mean a schedule of at least one hundred eighty (180) days of actual teacher-pupil teaching days, at least a five and one-half ( $5\frac{1}{2}$ ) hour school day in grades one through six (6) and at least a six (6) hour school day in grades seven (7) through twelve (12), and at least fifty percent (50%) of the school's full time teachers must hold valid Colorado teaching certificates.
  - d. Proprietary Schools: Schools such as art schools, language schools, business colleges, trade schools, secretarial colleges, gymnastic schools and dance schools.
  - e. Public Schools: Those schools administered by legally organized school districts.
9. HOSPITAL: An institution providing primary health services and medical or surgical care to persons suffering from illness, disease, injury, and other ailments, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities or training facilities.
10. MAINTENANCE AND SERVICE FACILITY: A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities having characteristics of commercial services or contracting or industrial activities.
11. MAUSOLEUM/COLUMBARIUM: A place such as a building or vault used or intended to be used for the burial of the dead and dedicated for cemetery purposes.
12. PUBLIC ASSEMBLY: Facilities which accommodate major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, event centers, incidental and exhibition facilities.
13. PUBLIC PARK AND RECREATION SERVICES: Publicly owned and operated parks, playgrounds, recreation facilities and open spaces.
- a. Neighborhood Park: Generally within walking distance of the neighborhood being served. Neighborhood parks are a minimum of five (5) acres, are oriented to all age groups, and have a variety of uses. They are often combined with an elementary school for the sharing of playground facilities.
  - b. Community Park: A land use which is generally twenty five (25) to one hundred (100) acres and intended to serve a large section of the City. Features included in a community park may be playgrounds, athletic fields, swimming pools, tennis courts, picnic areas, community recreation building and special features.
  - c. Regional Park: Serves the entire metropolitan area and is usually at least one hundred (100) acres or more. Regional parks usually include a major feature that is unique to the region as well as other facilities found in other park types.
14. RELIGIOUS INSTITUTION: Establishment for the conduct of religious activities, including accessory housing. This term includes church, temple, seminary, monastery, mosque, synagogue, and similar facilities.

15. SEMIPUBLIC COMMUNITY RECREATION: A recreational facility for use by residents and guests of a specific residential development or neighborhood. This includes both indoor and outdoor facilities, and facilities must be located within or adjacent to such development.

16. SOCIAL SERVICE CENTER: An establishment which provides services such as medical, dental or psychological care, distribution of food or clothing, hot meals or some recreational activities (but not including overnight lodging) to persons in need due to poor economic circumstances, age or social disability.

17. UTILITY FACILITIES: Electric generating plants, electrical switching facilities and primary substations, water and wastewater storage and treatment plants, and similar facilities.

E. Industrial Use Types: Industrial use types include the on site extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

1. CONSTRUCTION BATCH PLANT: A facility used for the manufacturing of concrete, asphalt, or other paving materials intended for specific construction projects.

2. CONSTRUCTION/CONTRACTOR YARDS: Establishments engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor yards.

3. CUSTOM MANUFACTURING: Manufacturing establishments primarily engaged in the on site production of goods by hand, within enclosed structures, involving the use of hand tools, the use of domestic mechanical equipment not exceeding two (2) horsepower, or a single kiln not exceeding eight (8) kilowatts. This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing and candle making shops.

4. GARBAGE SERVICE COMPANIES: Buildings and yards where vehicles used for the transport of garbage are stored, maintained, or cleaned.

5. GENERAL INDUSTRY: Establishments engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials.

a. Heavy Industry: Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

b. Light Industry: Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics manufacturing, print shops and publishing houses.

6. **ACCESSORY RETAIL SALES:** Accessory retail sales which are operated on the same property and in conjunction with other, nonretail uses specifically allowed in the zone district.
7. **INDUSTRIAL LAUNDRY SERVICES:** Establishments primarily engaged in the provision of bulk industrial laundering, dry cleaning or dyeing services other than those classified as personal services. Typical uses include bulk laundry services, and cleaning plants, diaper services, or linen supply services.
8. **JUNKYARD:** The use of any lot, plat, parcel or contiguous groups of the same for the sale, storage, display, dismantling, demolition, abandonment or discarding of "junk" as defined in this article.
9. **MANUFACTURING:** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.
10. **MEATPACKING AND RELATED INDUSTRIES:** The processing of meat products and byproducts directly from live animals or off of live animals.
11. **MEDICAL MARIJUANA INFUSED PRODUCTS MANUFACTURER - HAZARDOUS (MMIPM - HZ):**  
See subsection C22b(2) of this section.
12. **MINING OPERATIONS:** Activities conducted on the surface or underground for the exploration for, development of, or extraction of natural products including, but not limited to, sand, gravel, topsoil, limestone and coal from their natural occurrences and the cleaning, concentrating, refining or other processing or preparation and loading for transit of crude natural products at or near the mine site. The different classifications of mining operations are as follows:
  - a. **Open Pit:** A surface mining method in which the overburden is removed from atop natural products and in which, by virtue of the thickness of deposits, mining continues in the same area proceeding predominantly downward with lateral expansion of the pit necessary to maintain slope stability and necessary to accommodate the orderly expansion of the total mining operation.
  - b. **Surface:** Those mining operations carried out on the surface including strip, area strip, contour strip or auger mining, dredging and leaching or any combination thereof and activities related thereto.
  - c. **Temporary Surface And Open Pit Mining Operations:** Surface and/or open pit mining operations for a period of time not to exceed six (6) months in duration. The six (6) month duration shall commence upon the day the overburden is first disturbed.
  - d. **Underground:** Those mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine openings, and such use of the surface as is incidental thereto.
13. **RECYCLING:** The series of activities by which recyclable materials are collected, sorted, processed and converted into raw materials to be used in the production of new products. There are three (3) types of recycling uses: small recycling collection centers, large recycling collection centers and recycling processing centers.
  - a. **Small Recycling Collection Center:** A facility for the collection of recyclable materials for reuse, including aluminum cans, paper, glass, plastic, etc. Typical uses are mobile recycling units and accessory uses to include compacting, baling and paper or plastic shredding. Use is permitted in



conjunction with an existing multi-family, office, commercial, industrial, institutional or civic use as permitted in the underlying zone district.

- b. Large Recycling Collection Center: A facility for the collection of recyclable materials for reuse, including aluminum cans, paper, glass, plastic, etc. Typical uses include facilities that collect segregated recyclable materials.
  - c. Recycling Processing Center: An intermediate facility that processes recyclable materials from collectors and generators for the purpose of preparing material for recycling, including construction and demolition debris recyclers, material recovery facilities, scrap metal yards, paper processors and glass beneficiation plants. Processing techniques include baling, compacting, flattening, grinding, crushing and shredding.
- (1) Construction And Demolition Debris: A facility that processes material for recycling that is generated during the construction, remodeling, repair or demolition of buildings, bridges, pavements and other structures. Construction and demolition debris includes concrete, asphalt, lumber, steel girders, steel rods, wiring, drywall, carpets, window glass, metal and plastic piping, tree stumps, soil and other miscellaneous items related to the activities listed above. This category also includes natural disaster debris.
  - (2) Material Recovery Facility (MRF): A facility where recyclables are sorted into specific categories and processed or transported to processors for remanufacturing.
  - (3) Glass Beneficiation Plant: A glass processing facility where recovered glass cullet is cleaned of contaminants and processed into a form that is ready to be manufactured into a new product (mill ready).
  - (4) Scrap Metal Processor: An intermediate operating facility where recovered metal is sorted, cleaned of contaminants and processed into a form that is ready to be recycled. Examples include scrap metal yards and scrap metal dealers. This use shall not include vehicle storage, vehicle dismantling yards or junkyards.
  - (5) Paper Processor: An intermediate operating facility where recovered paper products and materials are sorted, cleaned of contaminants, and prepared for final recycling. Examples include paper stock dealers and paper packers.
14. RESEARCH AND DEVELOPMENT SERVICES: Establishments primarily engaged in research and development of prototypes of an industrial or scientific nature. Typical uses include electronic research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs. A research and development park usually contains open space and low rise buildings in a campus type setting.
15. STOCKYARDS: Uses involving temporary keeping of livestock for slaughter, market, or shipping. Typical uses are stockyards and animal auction yards.
16. TRANSFER STATION: A permanent collection and transportation facility used to deposit solid waste collected off site into larger transfer vehicles for transport to disposal site. Transfer stations may also include recycling facilities.
17. TRUCK TERMINAL: Any parcel of land or building where truck freight is transferred from collection vehicles or railroad cars to distribution vehicles or freight haulers, and vice versa. Routine daily

service and maintenance may be provided to trucks as an accessory use. This service and maintenance includes, but is not limited to, gasoline filling, oil changes, tune ups, engine lubrication, tire changing and repair and muffler repair but does not include removing engines or transmissions, painting or bodywork.

18. VEHICLE DISMANTLING YARD: Any lot, plot, parcel of land, or contiguous parcels of land used for the purpose of dismantling used vehicles and the salvage and resale of used parts. This use shall not include vehicle storage yards, scrap metal processing yards, or junkyards.

19. WAREHOUSE: An enclosed building used primarily for the storage of goods and materials.

20. WAREHOUSING AND DISTRIBUTION: An enclosed building used primarily for the storage and dispatching of goods and materials. Typical uses include wholesale distributors, storage warehouses, moving and storage firms.

F. Parking Use Types: Parking use types include parking of motor vehicles on a temporary basis within a privately or publicly owned off street parking facility that is other than an accessory use to a principal use.

1. PARKING LOT/SURFACE PARKING: The enclosed or unenclosed area at ground level for the purpose of providing parking spaces for vehicles, together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features and meets the requirements established by article 4, part 2 of this chapter.

a. Private: Off street parking spaces required by this Zoning Code and provided for owners, tenants, employees, and clients of specific businesses on the property.

b. Public: Off street parking spaces provided for public use although it may include private parking spaces as required by this Zoning Code if such private parking spaces are clearly identified as spaces for the building or uses upon which the requirement was premised.

2. PARKING STRUCTURE: A multilevel structure or part of a structure, whether below or above ground level or a combination thereof, but including ground level, for the purpose of providing parking spaces for vehicles, together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features and meets the requirements established by article 4, part 2 of this chapter.

a. Private: The off street parking spaces that are required by this Zoning Code and provided for owners, tenants, employees, and clients of specific businesses on the property.

b. Public: Constructed for public use although it may include private parking spaces required by this Zoning Code if such private parking spaces are clearly identified as spaces for the building or uses upon which the requirement was premised.

G. Transportation Use Types: Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

1. AVIATION FACILITIES: Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including

activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

2. RAILROAD FACILITIES: Railroad yards, equipment servicing facilities and terminal facilities.
3. TRANSPORTATION TERMINAL: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of ground transportation, including airport terminals, bus terminals, railroad stations, public transit facilities, and taxicab services.
4. TRANSIT SHELTER: Improvements and facilities at selected points along transit routes for passenger pick up, drop off, and waiting. Facilities and improvements may include shelters, benches, signs, structures, and other improvements to provide security, protection from the weather, and access to nearby services.
5. TRANSIT STATION: A facility located along a fixed public transit route (e.g., bus or other rapid transit route), other than a transportation terminal, where passengers load and unload from the transit mode and where passengers may change to another transportation mode. A transit station may include accessory uses such as convenience retail and personal services, public park or plaza spaces, or park and ride facilities.

H. Agricultural Use Types: Agricultural use types include the on site production of plant and animal products by agricultural methods.

1. ANIMAL PRODUCTION: The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis. Typical uses include grazing, ranching, dairy farming, and poultry farming.
2. COMMERCIAL FEEDLOTS: Use of a site of more than fifteen thousand (15,000) square feet where the principal business is the feeding of livestock and poultry.
3. CROP PRODUCTION: The raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.
4. COMMERCIAL GREENHOUSE: The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses for plants grown on site.
5. STABLE, COMMERCIAL: A structure for the keeping of horses, mules, ponies, donkeys, goats, sheep, llamas, alpacas or similar animals or any combination thereof which are hired, bred, boarded or shown on a commercial basis.
6. STABLE, PRIVATE: An accessory structure, shelter or fenced corral enclosure for the keeping of not more than a total of four (4) horses, mules, ponies, donkeys, goats, sheep, llamas, alpacas, potbellied pigs or other similar animals or any combination thereof for the use of the occupant(s) of the principal residential structure, and not kept for remuneration, hire, or sale.

7. COMMUNITY GARDENS: A managed common parcel or plot managed and used by nonowners for growing plants, vegetables or fruit for individuals or groups for nonretail purposes.

I. Miscellaneous Type Uses:

1. BROADCASTING TOWER: An accessory structure used in conjunction with a communication services land use type for the transmission or broadcasting of radio, television or microwaves.
2. COMMERCIAL MOBILE RADIO SERVICE (CMRS) FACILITY: An unmanned facility consisting of antennas, support structures, equipment and equipment storage buildings used for the transmission, switching, and/or receiving of low power wireless telecommunication including, but not limited to, cellular, enhanced specialized mobile radio (ESMR), paging and personal communication systems and point to point microwave. The following types of facilities are included within this definition:
  - a. Freestanding Facility: A CMRS facility that consists of a stand alone antenna support structure, antennas and associated accessory equipment which may be housed in a separate storage structure. Freestanding facilities include, but are not limited to, wooden poles, steel monopoles, lattice towers, etc.
  - b. Roof And/Or Building Mounted Facility: A CMRS facility where the antennas are mounted to the roof of an existing building (including rooftop appurtenances) or to building faces. Related accessory equipment may be located within the building on the roof or on the ground.
  - c. Special Purpose Noncommercial Radio Telemetry Equipment: Radio telemetry equipment and towers owned and operated by governmental or public utilities for noncommercial purposes.
  - d. Stealth Freestanding Facility: Freestanding CMRS facilities which have been designed to blend in with their natural or manmade setting allowing the presence of antennas, antenna arrays or towers to be substantially camouflaged or concealed. These structures would include, but are not limited to, manmade trees, clock towers, bell steeples, light poles, flagpoles, signs, electrical transmission facilities, water tanks or artistic structures.
3. LANDFILL (NONPUTRESCIBLE SOLID WASTE DISPOSAL): The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.
4. LANDFILL (PUTRESCIBLE AND NONPUTRESCIBLE SOLID WASTE DISPOSAL): The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency. Typical disposal material would include nonputrescible wastes and vegetation; tree parts, agricultural wastes (garbage) and manure. (Ord. 84-221; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 02-97; Ord. 02-125; Ord. 02-153; Ord. 03-157; Ord. 04-195; Ord. 06-55; Ord. 09-50; Ord. 09-69; Ord. 09-74; Ord. 10-107; Ord. 12-65; Ord. 16-33; Ord. 16-53)

# Article 3 LAND USE ZONING DISTRICTS

## PART 1 RESIDENTIAL DISTRICTS

### 7.3.101: PURPOSE:

### 7.3.102: PURPOSE AND SPECIFIC REQUIREMENTS OF THE RESIDENTIAL ZONE DISTRICTS:

### 7.3.103: PERMITTED, CONDITIONAL AND ACCESSORY USES:

### 7.3.104: AGRICULTURAL, RESIDENTIAL, SPECIAL USE AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT ZONE DISTRICT DEVELOPMENT STANDARDS:

### 7.3.105: ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES:

### 7.3.101: PURPOSE:

A. The purposes of this part are to:

1. Provide neighborhoods for residential living with a broad range of dwelling unit densities and development types consistent with the Comprehensive Plan and its standards for public health, safety, welfare and aesthetics.
2. Facilitate efficient provision of streets, utilities and municipal services which will minimize traffic congestion and avoid overloading public services and utilities.
3. Achieve a compatible land use relationship with the surrounding area which will protect residential neighborhoods from excessive noise, illumination, smoke, and odor.
4. Encourage a high quality of design in new development.
5. Provide clear and concise regulation of human service establishments; to adhere to Federal fair housing law and other Federal and State regulations that are not in conflict with City law; to promote communication and interaction among neighbors and operators of human service establishments, to ensure that zoning regulations are not used for exclusionary purposes; and to increase locational opportunities for critically needed residential care facilities.

It is the intent and purpose of this article to define human service establishments; to decentralize and deinstitutionalize human service establishments throughout the City; to limit overcrowding in residential neighborhoods and to ensure equal opportunity for residential living in neighborhoods; to remove unnecessary barriers to the placement of needed human service establishments in the City; to utilize the regulatory oversight of State licensing mechanisms; to encourage free and open communication between human service establishments and their neighbors and to maintain a

residential atmosphere for all residents.

Human service establishments are intended to provide the residents an opportunity to live in as normal a residential environment as possible. Lodging, meals, care and treatment may be provided as a consequence of physical, emotional or mental disability, family illness or impaired capacity for independent living.

B. The residential districts are:

A	Agricultural
R	Estate single-family residential
R-1 9000	Single-family residential
R-1 6000	Single-family residential
R-2	Two-family residential
R-4	Multi-family residential
R-5	Multi-family residential
SU	Special use

(Ord. 94-107; Ord. 01-42; Ord. 02-153; Ord. 03-110; Ord. 12-69)

### **7.3.102: PURPOSE AND SPECIFIC REQUIREMENTS OF THE RESIDENTIAL ZONE DISTRICTS:**

The following statements describe the purpose and intent for each of the residential zone districts. Uses allowed in these zones are listed in section [7.3.103](#) of this part with development standards listed in section [7.3.104](#) of this part. Residential uses which are subject to additional standards are listed and described in section [7.3.105](#) of this part.

A. A - Agricultural: This zone district accommodates large lot residential development and agricultural purposes that are, in most cases, on the periphery of the City limits but may become an urban area in the future. The agricultural activities conducted in the A zone district should not be detrimental to adjacent urban land uses. The types, size and intensity of uses permitted in this district shall encourage and protect agricultural uses until urban development occurs upon that parcel. The A zone, when established at the time of annexation, does not require the submittal of a concept plan, unless the concept plan is accepted in lieu of a required master plan.

B. R - Estate Single-Family Residential: This zone district accommodates large lots primarily for low density, detached single-family residential use.



	Single-family detached dwelling on an individual lot	P	P	P	P	P	P	P	P	P
	Two-family dwelling on an individual lot					P	P	P	P	P
	Multiple detached single-family dwellings on an individual lot						P	P	P	P
	Multiple two-family dwellings on an individual lot						P	P	P	P
	Accessory dwelling unit	P				P	P	P	P	P
	Manufactured home	P	P	P	P	P	P	P	P	P
	Mobile home <sup>1</sup>									
	Multi-family dwelling						P	P	P	P
	Rooming or boarding house						P	P	P	P
	Studio or efficiency						P	P	P	P
	Dormitory, fraternity or sorority house						P	P	P	P
	Retirement home						P	P	P	P
	Human service establishments:									
	Human service home	P	P	P	P	P	P	P	P	P
	Human service residence:	P	P	P	P	P	P	P	P	P
	Family care home	P	P	P	P	P	P	P	P	P
	Large family care home	C	C	C	C	C	P	P	P	C







	Membership club (social and recreational)	P	C					C	C	P
	Educational institutions:									
	Charter school	P	C	C	C	C	P	P	P	P
	College and university	P							P	P
	Nonpublic school	P	C	C	C	C	P	P	P	P
	Proprietary school								C	P
	Public school	P	C	C	C	C	P	P	P	P
	Semipublic community recreational facility (i.e., private parks, pools, etc.)	P	P	P	P	P	P	P		P
	Public parks and recreation services	P	P	P	P	P	P	P	P	P
	Religious institutions	P	C	C	C	C	P	P	P	P
	Industrial use types:									
	Mining operations:									
	Open pit	C								
	Surface	C								
	Underground	C								
	Temporary surface and open pit	C								
	Miscellaneous use types:									
	CMRS facility <sup>2</sup>									

Notes:

1. Mobile homes are only allowed in a mobile home park in a PUD zone district. See subsection [7.3.105O](#) of this part for additional information.
2. See section [7.4.603](#) of this chapter for CMRS additional information.
3. See subsection [7.3.105L](#) of this part for additional information.
4. See subsection [7.3.105K](#) of this part for additional information.

5. Unless otherwise permitted by this Zoning Code, all uses permitted in a specific FBZ zone district shall be determined at the time of zoning and described in the zone specific regulating plan.

(Ord. 3905; 1968 Code §§14-10, 14-11, 14-12, 14-13, 14-14, 14-15, 14-16; Ord. 74-117; Ord. 75-161; Ord. 80-131; Ord. 82-83; Ord. 86-39; Ord. 86-119; Ord. 86-124; Ord. 86-229; Ord. 87-38; Ord. 91-30; Ord. 94-23; Ord. 94-107; Ord. 01-42; Ord. 02-153; Ord. 03-74; Ord. 06-162; Ord. 09-71; Ord. 10-42; Ord. 10-107; Ord. 12-66; Ord. 14-8)

**7.3.104: AGRICULTURAL, RESIDENTIAL, SPECIAL USE AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT ZONE DISTRICT DEVELOPMENT**

**STANDARDS:**  

The development standards for the residential zone districts are listed in the following tables. The first table, titled "Agricultural, Residential, Special Use And Traditional Neighborhood Development Zone District Development Standards", lists the minimum district size, minimum lot area, minimum lot width, minimum building setbacks, maximum lot coverage and maximum building height for the majority of the zones. The second table, titled "Mobile Home Park Development Standards", contains the development standards for mobile home parks in the PUD zones. The third table, titled "Design Flexibility Overlay Zone Development Standards", lists the resulting changes for the designation of the design flexibility overlay zone to the R estate, R-1 9000 and R-1 6000 zone districts. Other site development standards relating to items such as landscaping, parking, signs, fences, lighting, and preservation areas and exceptions relating to building height, lot area and width, and setback requirements are listed in [article 4 of this chapter](#) and apply to development in these zone districts. When mixed use infill development or mixed use redevelopment occurs within the SU zone district, the development standards in [article 4 of this chapter](#) shall apply.

A. Agricultural, Residential, Special Use And Traditional Neighborhood Development Zone District Development Standards:

**AGRICULTURAL, RESIDENTIAL, SPECIAL USE AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT ZONE DISTRICT DEVELOPMENT STANDARDS**

<b>Standard</b>	<b>A</b>	<b>R</b>	<b>R-1 9000</b>	<b>R-1 6000</b>	<b>R- 2</b>	<b>R- 4</b>	<b>R- 5</b>	<b>PUD 1</b>	<b>SU</b>	<b>TND<sup>1,5,6, 8</sup></b>
Minimum lot area:										
Single-family detached (lot area per unit)	5 acres	20,000 sq. ft.	9,000 sq. ft.	6,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	4,000 sq. ft.		5,000 sq. ft.	
Single-family					7,000	6,000	6,000		6,000	

and accessory dwelling unit					sq. ft.	sq. ft.	sq. ft.		sq. ft.	
Duplex (lot area per duplex)					7,000 sq. ft. <sup>4</sup>	6,000 sq. ft. <sup>4</sup>	6,000 sq. ft. <sup>4</sup>		6,000 sq. ft.	
Duplex and accessory dwelling unit						6,000 sq. ft.	6,000 sq. ft.		6,000 sq. ft.	
Multi-family unit (lot area per unit):										
One-story						2,500 sq. ft.	1,400 sq. ft.		1,000 sq. ft.	
Two-story						2,000 sq. ft.	1,100 sq. ft.		800 sq. ft.	
Three-story						1,500 sq. ft.	900 sq. ft.		700 sq. ft.	
Four-story							800 sq. ft.		600 sq. ft. <sup>2</sup>	
Attached single-family						3,000 sq. ft.	2,200 sq. ft.			

Minimum lot width	200 ft.	100 ft.	75 ft.	50 ft.	50 ft. <sup>3</sup>	50 ft. <sup>3</sup>	50 ft. <sup>3</sup>		50 ft.	
Minimum setback:										
Front	25 ft.	25 ft.	25 ft.	25 ft.	25 ft. <sup>3</sup>	20 ft. <sup>3</sup>	20 ft. <sup>3</sup>		25 ft.	
Side	10 ft.	10 ft.	10 ft.	5 ft.	5 ft. <sup>3</sup>	5 ft. <sup>3</sup>	5 ft. <sup>3</sup>		5 ft.	
Rear	35 ft.	35 ft.	30 ft.	25 ft.	25 ft. <sup>3</sup>	25 ft. <sup>3</sup>	25 ft. <sup>3</sup>		25 ft.	
Maximum lot coverage	15%	20%	25%	7	7	35%	40%		50%	
Buildings exceeding 18 ft. in height				30%	30%					
Buildings less than 18 ft. in height:										
5,000 - 6,500 sq. ft. lot				45%	45%					
6,501 - 7,500 sq. ft. lot				40%	40%					

7,501 - 8,500 sq. ft. lot				35%	35%					
8,501+ sq. ft. lot				30%	30%					
Maximum building height	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	40 ft.	45 ft.		60 ft.	

Notes:

1. Specific development standards for the PUD and TND zones are determined at the development plan review stage in accord with density established with the specific zones.
2. 5 and 6 stories may be allowed; use the density for a four-story building (600 square feet per unit) for calculations.
3. Applies to the periphery of the development project and does not apply when platting around individual unit(s) or platting along a common wall.
4. When platting individual duplex units, each lot must contain 3,500 square feet in the R-2 and 3,000 square feet in the R-4, R-5 and SU districts.
5. For single-family detached and two-family lots, lot coverage for principal and accessory structures shall not exceed 60 percent.
6. Within a TND zone, landscape requirements noted in the TND zone ordinance may supersede the City's landscape code site category requirements.
7. Lot coverage flexibility is being provided for single level homes compared to two-story (above grade) homes; the intent is to allow additional lot coverage for single level homes while providing a variable architectural mix on similar sized lots.
8. TND heights are to be determined based on street adjacency, as follows:

TND MAXIMUM BUILDING HEIGHT

<u>Street Type</u>	<u>Maximum Height</u>
Alley	Not to exceed primary dwelling on lot
Lane	30 ft.
Neighborhood	35 ft.
Main	40 ft.

Avenue	70 ft.
Boulevard	65 ft.
Parkway	n/a

B. Mobile Home Park Development Standards:

MOBILE HOME PARK DEVELOPMENT STANDARDS

Standard	Dimension	
Minimum park size	10	acres
Minimum space size:		
Mobile home	3,600	sq. ft.
Permanent recreational vehicle	2,100	sq. ft.
Minimum space dimensions:		
Width:		
Mobile home	40	ft.
Permanent recreational vehicle	35	ft.
Depth:		
Mobile home	90	ft.
Permanent recreational vehicle	60	ft.
Maximum height	20	ft.
Minimum setbacks for principal uses:		
Front yard separation (principal use to interior street)	10	ft.
Front yard separation (principal use to interior street when front parking is provided)	18	ft.
Side yard separation between principal uses	12	ft.



Rear yard separation between principal uses	12	ft.
Principal use from mobile home park boundary	20	ft.
Principal use from major street	25	ft.
Minimum setbacks for accessory uses:		
From interior street	10	ft.
From principal use	3	ft.
From park boundary	20	ft.
From attached accessory structure (i.e., deck) to next principal accessory structure	6	ft.
From storage building to principal or accessory structure	3	ft.
Additional standards:		
Circulation	Minimum of 2 20-ft. streets are required for emergency access	
Off street parking	1 space per mobile home and located within the side or front yard setback	
Common storage areas	100 sq. ft. per mobile home space	

C. Design Flexibility Overlay Zone Development Standards:

DESIGN FLEXIBILITY OVERLAY ZONE DEVELOPMENT STANDARDS

Standards		R	R-1 9000	R-1 6000
Minimum lot size criteria:				
	Average of lot sizes	20,000 sq. ft.	9,000 sq. ft.	6,000 sq. ft.
	Minimum lot size	10,000 sq. ft.	6,000 sq. ft.	4,000 sq. ft.

Minimum lot size of at least 50 percent of lots	20,000 sq. ft.	9,000 sq. ft.	6,000 sq. ft.
Maximum lot coverage (principal and accessory buildings):			
			Homes more than 18 ft. in height <sup>2</sup> :
	25% for lots less than 20,000 sq. ft.	30% for lots less than 9,000 sq. ft.	40% for lots less than 6,000 sq. ft.
	20% for lots 20,000 sq. ft. or greater	25% for lots 9,000 sq. ft. or greater	30% for lots 6,000 sq. ft. or greater
			Homes less than 18 ft. in height <sup>2</sup> :
			45% for lots less than 6,500 sq. ft.
			40% for lots 6,501 - 7,500 sq. ft.
			35% for lots 7,501 - 8,500 sq. ft.
			30% for lots 8,501 sq. ft. or greater
Minimum width of lot at front and rear setbacks	75 ft.	50 ft.	40 ft.
Minimum street frontage (except flag stems):	50 ft.	40 ft.	30 ft.
Minimum street frontage of flag stems	20 ft.	20 ft.	20 ft.

Front yard setbacks:				
All unless adjacent to a collector or arterial:				
	House	20 ft.	15 ft.	15 ft.
	Garage	20 ft.	20 ft.	20 ft.
When adjacent to collector		25 ft.	25 ft.	25 ft.
When adjacent to minor arterial <sup>1</sup>		30 ft.	30 ft.	30 ft.
When adjacent to major arterial <sup>1</sup>		40 ft.	40 ft.	40 ft.
Side yard setbacks:		5 ft.	5 ft.	5 ft.
Sum of side yard setbacks		20 ft.	20 ft.	10 ft.
Rear yard setbacks:		25 ft.	25 ft.	20 ft.
When adjacent to minor arterial <sup>1</sup>		30 ft.	30 ft.	30 ft.
When adjacent to major arterial <sup>1</sup>		40 ft.	40 ft.	40 ft.

Notes:

1. When a development provides a dedicated landscape tract between the right of way of a major or minor arterial and an adjacent lot, the landscape tract may be used to meet the required 40 foot or 30 foot rear/front yard setback amount. However, each lot must continue to maintain the minimum rear yard setback requirement (i.e., 20 feet or 25 feet) for that particular zone. All other nonconflicting minimum standards specified in the base zone shall apply.
2. Lot coverage flexibility is being provided for single level homes compared to two-story (above grade) homes; the intent is to allow additional lot coverage for single level homes while providing a variable architectural mix on similar sized lots.

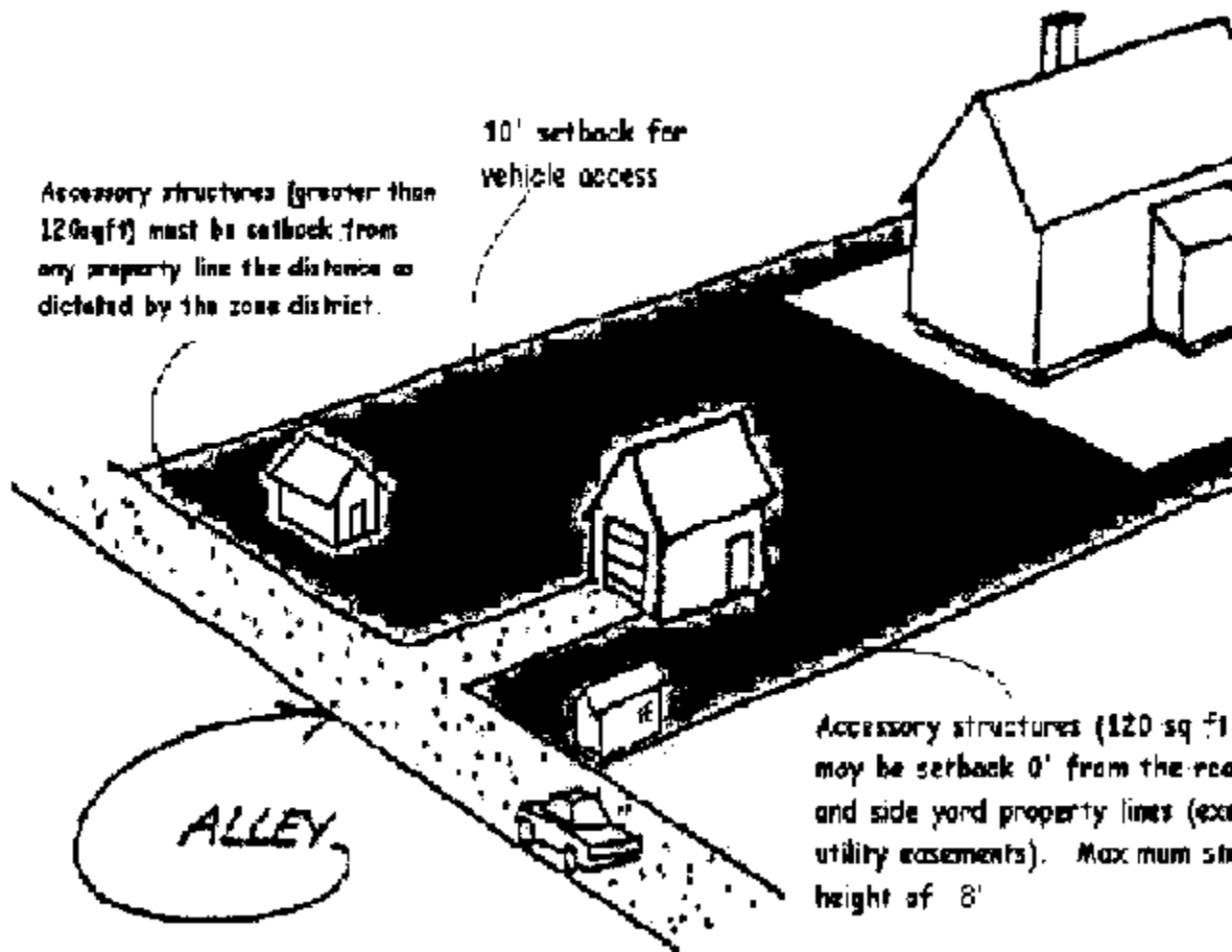
(Ord. 94-107; Ord. 01-42; Ord. 02-153; Ord. 03-74; Ord. 03-157; Ord. 04-110; Ord. 09-72)

**7.3.105: ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES:**  

Individual standards are designed to mitigate impacts that apply to many uses allowed in the residential zone districts. Complete descriptions of these uses and standards are as follows. These

standards are in addition to the residential development standards and the general site design standards contained in this chapter.

- A. Accessory Uses And Structures: Accessory uses which comply with this section are permitted in any zone district, but only in connection with a principal use which is permitted within the district. No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is an accessory. The use of vehicles as storage structures or as other types of accessory structures is prohibited.



1. Except for development in a TND zone, accessory structures and uses shall comply with the following development standards:

- a. Accessory structures are not allowed in the front yard setback. The structure/use shall maintain the minimum side yard setbacks for the zone in which it is located;
- b. Detached garages and carports with doors adjacent to an alley or access easement shall be set back a minimum of ten feet (10') from the property line adjacent to the alley or from the edge of any access easement;
- c. Accessory structures/uses of one hundred twenty (120) square feet or less in gross floor area are allowed anywhere in the rear yard setback so long as the structure does not encroach into any recorded easements, unless an easement encroachment has been granted by the City;
- d. Accessory structures/uses that are greater than one hundred twenty (120) square feet in gross floor area located in the rear yard setback must maintain the following setback from any property line within the rear yard area:

A, R estate, R-1 9000	10 feet
R-1 6000, R-2, R-4, R-5, SU, OR, OC, C-5, C- 6, M-1	5 feet
PUD, TND	5 feet unless otherwise specified on the approved development plan
M-2	0 feet

- e. Accessory structures/uses located within a hillside, historic preservation or streamside overlay zone district are subject to site plan review to determine compliance with the provisions of those overlay districts;
- f. All roofed/covered accessory structures/uses are subject to lot coverage maximums for the zone district;
- g. Accessory structures/uses shall be no larger in gross floor area than the footprint of the principal structure located on the lot;
- h. Accessory structures/uses shall comply with the following height restrictions:
  - (1) Accessory structures/uses of one hundred twenty (120) square feet in gross floor area or less:
    - (A) Shall not exceed eight feet (8') at the highest point if located within the required setbacks for the zone.
    - (B) Structures that meet the setback requirements will be subject to the same height standards as accessory structures that are over one hundred twenty (120) square feet.
  - (2) Accessory structures/uses over one hundred twenty (120) square feet in gross floor area:

- (A) With a roof pitch of less than six to twelve (6:12) shall have a maximum height of sixteen feet (16').
- (B) With a roof pitch of six to twelve (6:12) or greater shall have a maximum height of twenty feet (20').
- (C) Height of accessory structures/uses shall be measured as the vertical distance of the average elevation of the finished grade adjoining the building to the highest point of the roof surface.
- (i) These height standards shall not apply to accessory dwelling units constructed in R-2, R-4, R-5, SU, and C-5 Zone Districts in accord with this section.
- (ii) These height standards shall not apply to accessory dwelling units constructed in a PUD or TND Zone. The height limitations for accessory dwelling units within the PUD and TND Zone Districts shall be established by the approved development plan.

2. Any structure or use that complies with the definition of an "accessory use" and the standards described below may be allowed. All accessory structures and uses shall comply with the use limitations applicable in the zoning district in which they are located. Accessory uses and structures include, but are not limited to, the following list of examples. The Manager will determine similar uses which are not listed but meet the definition and standards of an accessory use. This section does not apply to mobile home parks.

a. Antenna: Antennas, i.e., radio, television, CB and satellite dishes are allowed in any residential zone district.

b. Beehive(s):

(1) Properties Less Than Ten Thousand Square Feet: Properties that are less than ten thousand (10,000) square feet in area are permitted a maximum of two (2) beehives.

(2) Properties Between Ten Thousand Square Feet And One Acre: Properties that are between ten thousand (10,000) square feet and one acre in area are permitted a maximum of four (4) beehives.

(3) Properties Greater Than One Acre And Up To Five Acres: Properties that are greater than one acre but not more than five (5) acres in area are permitted the following:

(A) Up to two (2) acres a maximum of five (5) beehives.

(B) Over two (2) acres and up to three (3) acres a maximum of six (6) beehives.

(C) Over three (3) acres and up to four (4) acres a maximum of seven (7) beehives.

(D) Over four (4) acres and up to five (5) acres a maximum of eight (8) beehives.

(4) Properties Greater Than Five Acres: Properties that are greater than five (5) acres in area are permitted an unlimited number of beehives.

(5) Setbacks:

(A) On properties less than ten thousand (10,000) square feet in area, beehives must be a minimum of five feet (5') from the nearest side or rear property line, measured from the nearest point of the hive box to the property line, and may not be located within the front-yard setback.

(B) On properties between ten thousand (10,000) square feet and five (5) acres in area, beehives must be a minimum of fifteen feet (15') from the nearest side or rear property line, measured from the nearest point of the hive box to the property line, and may not be located within the front-yard setback.

(C) On properties that are more than five (5) acres in area, beehives must be a minimum of fifty feet (50') from the nearest property line, measured from the nearest point of the hive box to the property line.

(6) Flyway Barriers:

(A) A flyway barrier shall be installed within five feet (5') of the entrance of all beehives on properties of less than five (5) acres in area. No flyway barrier is required if the beehive(s) is located fifty feet (50') or more from any property line.

(B) A flyway barrier shall be a minimum of six feet (6') in height.

(C) A flyway barrier shall be located no further than five feet (5') from any beehive(s).

(D) A flyway barrier shall be constructed of an opaque fence or fast growing, dense evergreen vegetative material capable of reaching six feet (6') in height at maturity.

(7) Fresh Water Supply: A fresh water supply shall be provided within five feet (5') of the beehive(s).

c. Playhouse: A child's playhouse is allowed in any residential district provided that if the playhouse exceeds six feet (6') in height it must meet all of the development standards for the zone district.

d. Columbarium: Columbaria may be allowed as an accessory use to a religious institution subject to approval of a development plan or development plan amendment for the religious institution.

e. Daycare Home: Small daycare homes which are State licensed and have an attendance of not more than six (6) full time and two (2) part time children are allowed in any residential zone district.

f. Flagpole: Flagpoles are allowed in any residential zone district.

g. Garage Sale: Garage sales are allowed in any residential zone district provided that:

(1) Each garage sale is held no more than two (2) times per calendar year, and

(2) Each garage sale does not exceed a period of two (2) consecutive days.

h. Medical Or Dental: Any use accessory to a clinic or medical or dental office building or office complex, such as drug prescription and supply shop, office or shop for fabricating and fitting prosthetic or corrective devices or medical or dental laboratories, shall be permitted as an accessory use to the permitted use within any clinic, office building or office complex, provided such accessory use shall be intended for the use of the occupants and clientele of such office; however, this accessory use is only allowed in the Special Use (SU) Zone District.

i. Outdoor Storage: Outdoor storage only as specifically permitted by the district.

j. Storage Structure: Storage structures are limited to two (2) structures per principal use, provided the structures do not exceed four hundred (400) square feet in gross floor area.

k. Swimming Pool/Bathhouse: Private swimming pool and bathhouse.

B. Daycare Homes, Large Daycare Homes, And Daycare Centers: Whenever a daycare home, large daycare home or daycare center is a principal permitted use or a conditional use within a specific zone district, the following criteria must be met:

1. A licensed daycare home, a facility with attendance of no more than six (6) children full time plus two (2) children part time, is allowed as an accessory use. The following standards shall apply to a daycare home:

a. No more than one part time employee who does not reside in the home may work at the home.

b. Substitute providers are allowed when the normal provider cannot be present.

c. One wall sign not more than two (2) square feet is allowed.

d. No part of the required outdoor space shall be situated within any front building setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

e. Subject to the approval of a daycare permit from the Community Development Department.

2. A licensed large daycare home, a facility with attendance of seven (7) to twelve (12) children, requires a conditional use in most residential zone districts. For licensed large daycare homes, contact both the Regional Building Department and the Colorado Springs Fire Department for Building and Fire Code requirements. The following standards shall apply to a large daycare home:

a. All standards required for a daycare home, listed in section [7.2.302](#) of this chapter.

b. A large daycare home shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's requirements.

3. A daycare center, a facility having more than six (6) children full time and generally located in an office or commercial zone district. For daycare centers, contact both the Regional Building Department and the Colorado Springs Fire Department for Building and Fire Code requirements. A daycare center must meet the following standards:

a. A daycare center shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's requirements. No part of the required outdoor space shall be situated within any front building setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

b. A daycare center must be located on a collector street which is a street having direct access to a minor or major arterial roadway.



C. Carports And Garages: Carports and/or garages are allowed in any zone district as an accessory use, but only in connection with a principal use. Except as otherwise provided in part 9 of this article, the maximum capacity and size of any combination of attached or detached private parking garages or carports associated with one dwelling unit are as follows:

1. Single-Family: A maximum of one thousand two hundred (1,200) square feet per unit with garage doors for no more than four (4) cars.
2. Multiple-Family: A maximum of six hundred (600) square feet per unit with garage doors for no more than two (2) cars.
3. Storage: The space within a garage or carport shall not exceed one thousand two hundred (1,200) square feet unless a storage space not to exceed four hundred fifty (450) square feet has been incorporated into the structure.
4. Detached Garages: Detached garages with a roof pitch of less than six to twelve (6:12) shall have a maximum height of sixteen feet (16'). Detached garages with a roof pitch of six to twelve (6:12) or greater shall have a maximum height of twenty feet (20'). Height for detached garages shall be measured as the vertical distance from the average elevation of the finished grade adjoining the building to the highest point of the roof surface.
5. Footprint Size: The size of the footprint for detached garages may not exceed the footprint size of the principal structure.

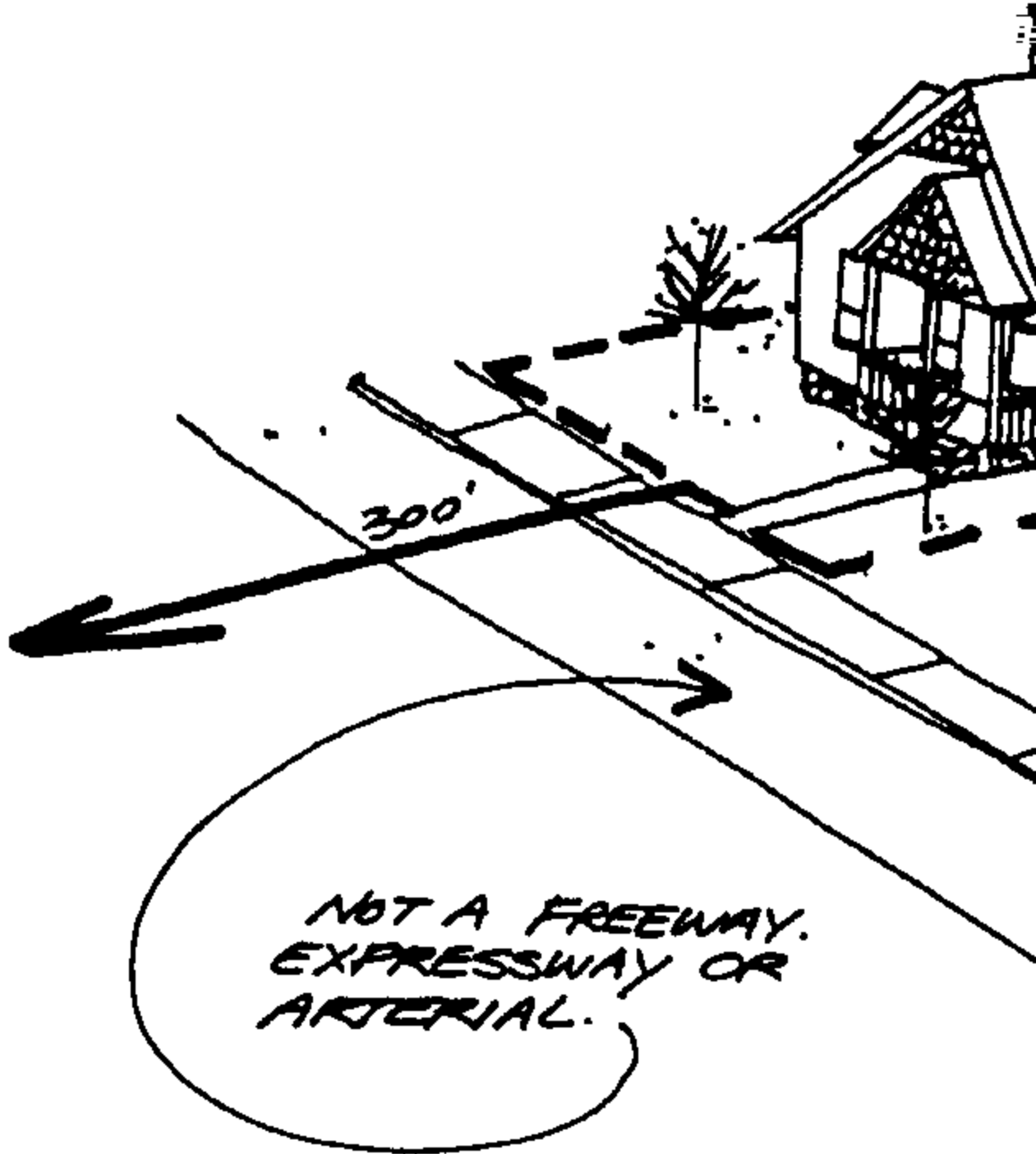
D. Greenhouse And Nursery, Private: A commercial private greenhouse/nursery is allowed as an accessory use in all residential zone districts, however, sales are limited to products grown on site.

E. Home Occupations: A home occupation is allowed as an accessory use in all residential zone districts, however, all conditions and requirements for a home occupation permit listed in article 5, part 15 of this chapter shall be met for a home occupation to be operated in a dwelling unit.

F. Human Service Establishments:

1. Human service establishments consist of those types listed in subsection [7.2.302A4](#) of this chapter.
2. Whenever in this section a human service establishment is a principal permitted or conditional use, the following conditions shall be met:

# Off-site parking for Hist



a. Separation Requirements: No human service establishment shall be located within one thousand feet (1,000') of another human service establishment. The one thousand foot (1,000') spacing requirement shall not apply between two (2) establishments licensed by the State as assisted living or long term care. The one thousand foot (1,000') separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed human service establishment to the nearest property line of another human service establishment.

b. Human Service Establishment Administrative Permit Requirements: It shall be unlawful for any person or entity to operate an establishment listed in subsection [7.2.302A4](#) of this chapter until an administrative permit or a provisional permit has been approved by the Manager.

(1) Application: The application for a human service establishment administrative permit shall identify the status of the applicant or entity (i.e., individual, private nonprofit, private for profit, government or other category).

(2) Provisional Permit: If an establishment requires a human service establishment administrative permit prior to obtaining State licensing, and meets all of the requirements for the permit, the Manager shall issue a provisional permit which shall allow occupancy of the establishment for six (6) months. The provisional permit shall become an administrative permit upon the award of the State license, or may be renewed one time for a subsequent period of six (6) months.

(3) Termination: If the use of an operation as authorized under the administrative permit is terminated, or if the operation is otherwise discontinued for a period of twelve (12) months, the administrative permit shall expire.

c. Permitted Zones For Human Service Establishments:

(1) Human service homes are permitted in the A, R, R-1 9000, R-1 6000, R-2, R-4, R-5, SU, TND, OR, OC, C-5, PUD, FBZ, MU-CC, MU-NC or MU-R/EC zone districts.

(2) All other types of human service establishments may be allowed in accord with section [7.3.103](#) of this part and section [7.3.203](#) and subsection [7.3.705B](#) of this article.

(3) A development plan is required for the following permitted uses identified in the tables in section [7.3.103](#) of this part and section [7.3.203](#) and subsection [7.3.705B](#) of this article: a human service residence, large family care home, hospice, residential childcare facility, domestic violence safe house housing more than five (5) residents, family support residence, human service facility, drug and alcohol treatment facility, human service shelter and detoxification center use.

(4) In the PUD zone, after October 1, 2012, all human service establishment uses other than human service homes, shall be determined at the time of the establishment of the zone district.

(5) In the FBZ zone, all human service establishment uses, other than human service homes, shall be determined at the time of regulating plan approval.

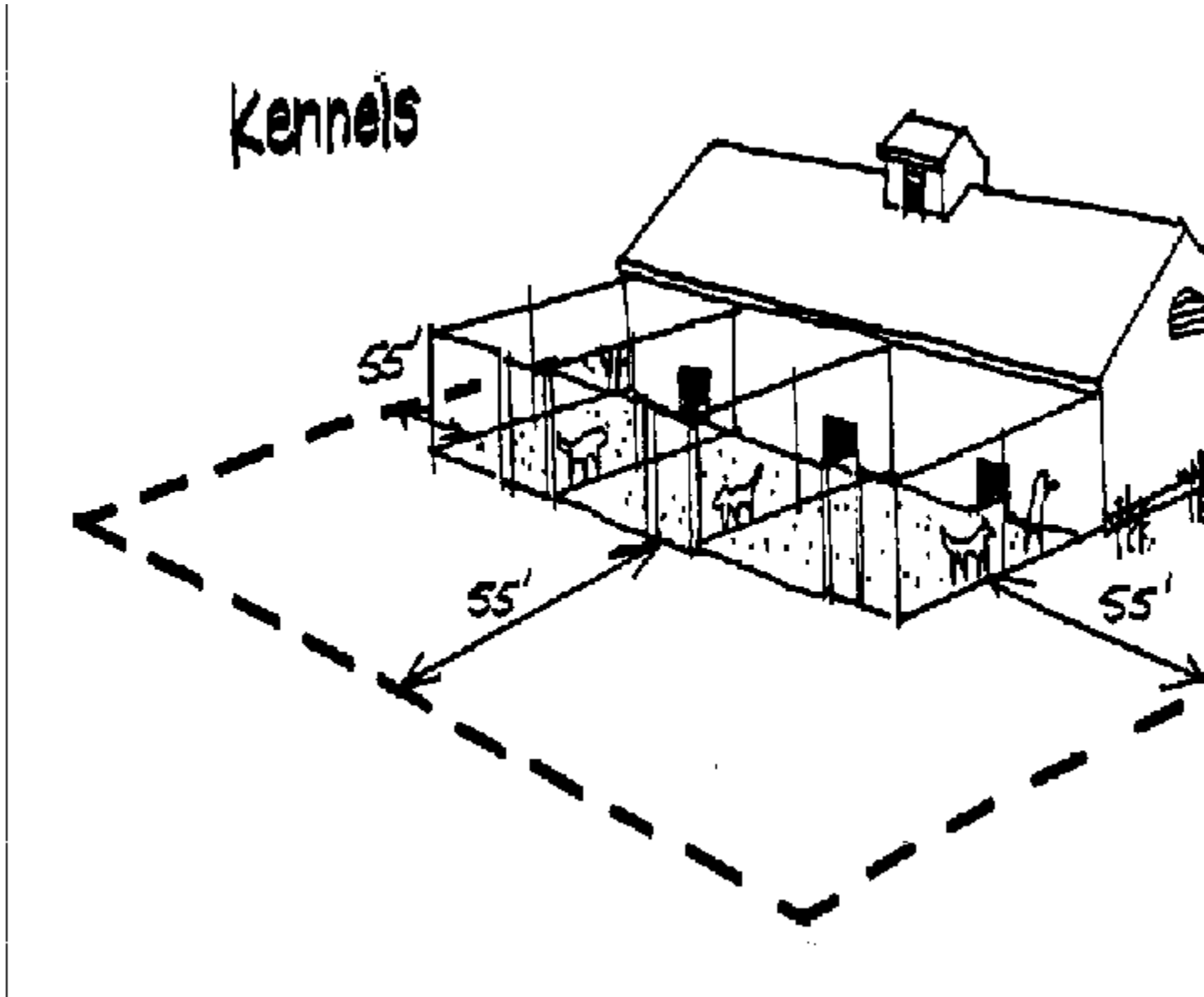
d. Establishment Requirements And Review Criteria:

- (1) Parking Requirements: Parking requirements for human service establishments shall be in accord with subsection [7.4.203A](#) and section [7.4.206](#) of this chapter.
- (2) Review Criteria: The following review criteria shall apply to a human service establishment that requires a development plan or conditional use application along with the review criteria as listed in subsection [7.5.502C](#) and section [7.5.504](#) of this chapter, respectively.
  - (A) Does the proposed site provide adequate space for active outdoor recreation, if needed?
  - (B) Does the proposed site provide adequate space for passive outdoor recreation?
  - (C) Are recreation areas located to minimize noise impacts on adjacent properties?
  - (D) Will landscaping, berms, fences or walls be provided to buffer the site if needed?
  - (E) Will physical alterations to the exterior of the existing structure and landscaping and any signs be in keeping with the character of the neighborhood and be kept to a minimum?
  - (F) Has the establishment been designed and located to assure the security of the establishment itself, adjoining properties and the neighborhood in general?
- (3) Certificate Of Occupancy: Prior to the occupancy of an establishment, a certificate of occupancy shall be obtained authorizing the use of the property as the applicable type of human service establishment.
- (4) Domestic Violence Safe House Review Criteria And Requirements: An administrative permit shall be approved for a domestic violence safe house if the following criteria are met:
  - (A) The purpose of a domestic violence safe house is the provision of a confidential residence that provides a safe haven for individuals and their children, if any, who have been victimized by physical or emotional abuse. In the interest of protecting this confidentiality and to minimize the number of individuals associated with approving the placement of a domestic violence safe house, the following procedures will govern:
    - (i) An eligible operator of a domestic violence safe house shall be an entity or corporation registered in the State of Colorado.
    - (ii) Upon receipt of the operator's mission statement and a request for an administrative permit, and any other information determined necessary by the Manager to ascertain the adequacy of a proposed location for a domestic violence safe house, the Manager shall review the request in accord with the applicable criteria in this section. There is no requirement for public notification or public hearing prior to the Manager's review or decision.
    - (iii) Within thirty (30) days after receipt of the completed request, the Manager shall convey a recommendation to the Mayor. If the Mayor and Manager agree that the criteria are not met, the applicant shall be informed of the areas of noncompliance. If the Mayor and Manager agree that the criteria are met, the Manager shall issue an administrative permit.
    - (iv) The operator of a domestic violence safe house that receives an administrative permit must pass a fire inspection prior to initiating operation of the safe house.

(v) The Mayor, Manager and any other municipal employee who may become aware of the location of a domestic violence safe house shall hold confidential the location of the domestic violence safe house.

(vi) Information and documents pertaining to a safe house may only be released to the Mayor, the City Attorney, the Fire Chief and the Police Chief. This information and documentation shall not be disseminated further to City personnel or other governmental personnel except by joint determination and concurrence of the Mayor, City Attorney and Police Chief, or court order. For purposes of this section, "court" is declared to mean a Colorado State court or a Federal court with jurisdiction over the City.

G. Kennels: Any kennel building and any associated animal run must be constructed at least fifty five feet (55') from any property line.



H. Outside Vehicle Storage: Outside vehicle storage is allowed in all of the residential zone districts, however, the design and location of off street parking, vehicle and recreational vehicle storage, and loading spaces shall comply with standards and regulations listed in this Zoning Code.

I. Personal Recreational Vehicle Storage: The personal storage of recreational vehicles is allowed in zone districts A, R, R-1 9000, R-1 6000, R-2, R-4, R-5 and SU and shall conform to regulations listed in section [9.6.504](#) of this Code.

J. Religious Institutions: Religious institutions are permitted in the A, R-4, R-5, PUD, SU and TND zone districts and conditional in R, R-1 9000, R-1 6000 and R-2. Except for the TND zone, the following additional standards also apply:

1. Minimum lot area:

a. Principal auditorium capacity of not more than three hundred (300) seats: 2.5 acres.

b. Principal auditorium capacity of three hundred one (301) or more seats: Four (4) acres.

2. Setbacks from any public right of way line:

a. Principal or accessory buildings: Fifty feet (50').

3. Religious institutions within a TND zone shall comply with the standards of the TND zone. Religious institutions that exceed thirty thousand (30,000) square feet in area are conditional uses in TND zones.

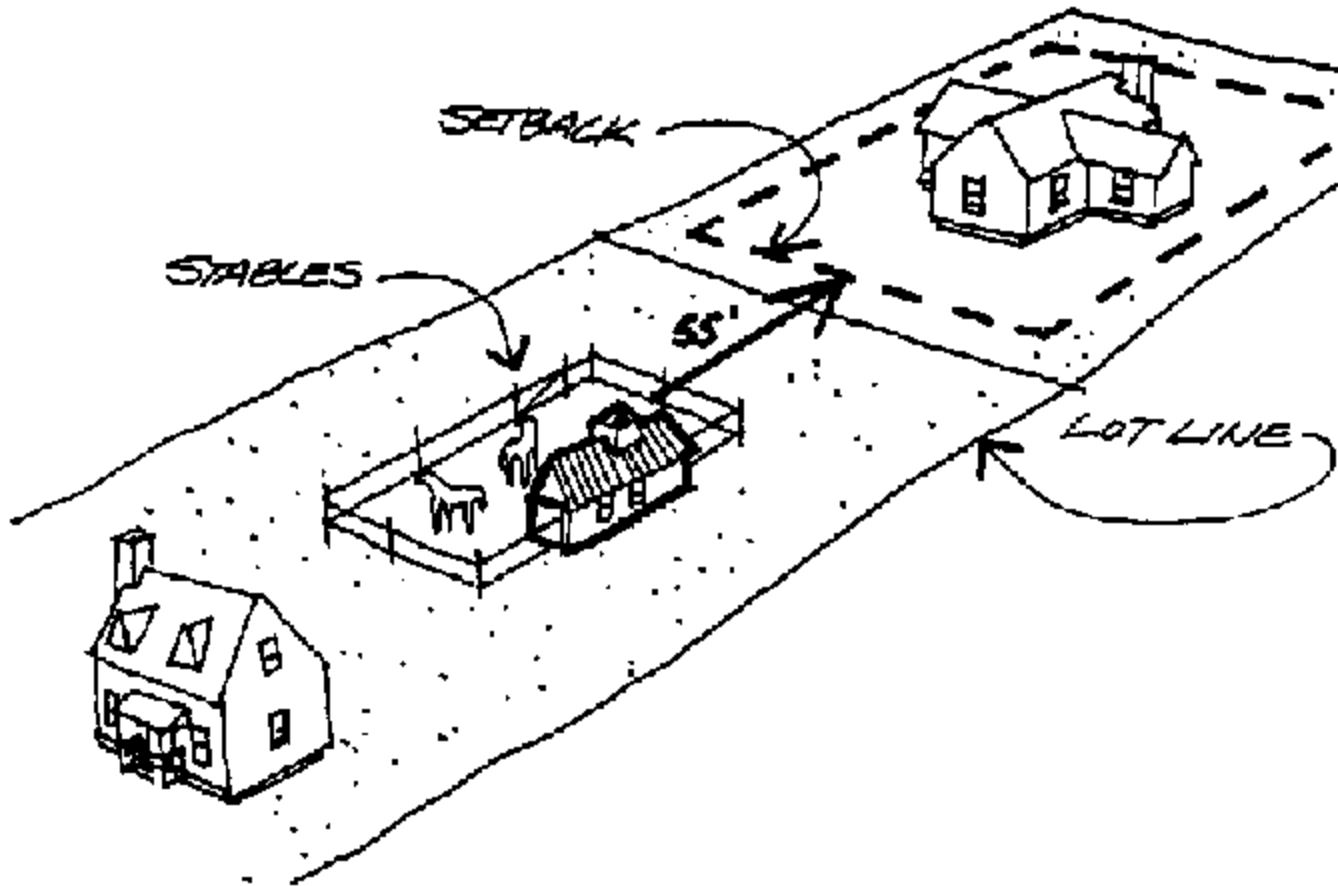
K. Stables, Riding Academies, Corrals - Commercial: Commercial stables, corrals and riding academies are permitted within the A zone district, however, all buildings and corrals must be constructed at least fifty five feet (55') from any property line.

L. Stables And Corrals, Private: Private stables and corrals for up to four (4) horses, mules, ponies, donkeys, goats, sheep, llamas, alpacas, potbellied pigs or any combination thereof are permitted as a residential accessory use within any residential zone in accord with the requirements noted in sections [6.7.106](#) and [6.9.101](#) of this Code and under the following conditions:

1. The subject lot must have a minimum lot area of thirty seven thousand (37,000) square feet;

2. All buildings and corrals must be constructed at least fifty five feet (55') from the building envelope of the adjoining lot.

# Stables and Corrals, Private



M. Detached Accessory Dwelling Units: A development plan is not required for the construction of an accessory dwelling unit, but a site plan shall be submitted for review and must meet the following standards:

1. Minimum Lot Area: The subject lot must meet the minimum lot area required as described in section [7.3.104](#) of this part.
2. Maximum Footprint: Maximum footprint or finished living area of a detached accessory dwelling unit may not exceed seven hundred fifty (750) square feet. Decks or porches attached to an accessory dwelling unit are not included in this calculation. If the accessory dwelling unit is constructed over a garage, the garage area will not be included as part of the maximum floor space of the accessory dwelling unit.
3. Number Of Units: Only one detached accessory dwelling unit is allowed per lot.

4. Setbacks: A detached accessory dwelling unit must meet the following setbacks:
  - a. Rear Yard: Five feet (5') if a freestanding dwelling unit or if located above a garage with the overhead door not facing the alley. Ten feet (10') if the dwelling unit is above a garage and the overhead doors are facing the alley.
  - b. Front Yard: Must be located behind rear corners of principal dwelling unit. If on a corner lot, it must meet the front yard setbacks of the zoning district.
  - c. Side Yard: Per zone district requirements for the principal dwelling unit.
  - d. From A Principal Dwelling Unit: Minimum twenty foot (20') setback from the principal dwelling unit, as measured from the closest exterior wall, not to include decks on either the principal or accessory structure. In no instance shall the principal dwelling or the accessory dwelling be physically connected through any means unless all standards of this Zoning Code are met.
5. Height: Maximum building height of detached accessory dwelling unit: Twenty five feet (25').
6. Off Street Parking Requirements: Minimum one parking space in addition to the minimum parking required for the principal structure.
7. Additional Standards:
  - a. Home occupations may be allowed within an accessory dwelling unit, subject to home occupation review and approval.
  - b. Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an accessory dwelling unit.
8. Conversion Of Existing Detached Garages Into Detached Dwelling Units: The detached garage must meet the minimum setbacks as required in subsection M4 of this section. If a portion of the detached garage building does not meet the development standards, a nonuse variance will be required in accord with article 5, part 8 of this chapter.
- N. Transit Shelters: Transit shelters are allowed in all of the residential zone districts. Except for the provisions listed in article 4, part 4 of this chapter, whenever benches, shelters or kiosks have been placed for the convenience of patrons either within or outside of the public rights of way under proper permit or authority of the City, the placement and location of the benches, kiosks or shelters shall be exempt from the provisions of this Zoning Code.
- O. Mobile Home Parks: Mobile home parks are allowed within the PUD zone when the use is specifically authorized with the PUD zone district establishment or change.
- P. Personal Cultivation Of Marijuana And Medical Marijuana: Pursuant to Colorado Constitution article XVIII, sections 14 and 16, patients, caregivers, and persons over twenty one (21) years of age may lawfully grow a limited amount of marijuana. No more than twelve (12) medical marijuana plants, marijuana plants for personal use, or any combination thereof, with one-half



(1/2) or fewer being mature, flowering plants can be grown in a single residential unit or an accessory structure to a single residential unit, regardless of the number of patients, caregivers, or persons over twenty one (21) years of age, or any combination thereof, that reside in the residential unit. These activities are allowed as accessory uses in all residential zone districts or residential units so long as:

1. No marijuana is dispensed, except to registered patients pursuant to Colorado Constitution article XVIII, section 14;
2. No marijuana or medical marijuana infused products are manufactured or sold;
3. No marijuana or medical marijuana is cultivated outdoors;
4. No signs regarding medical marijuana are displayed;
5. No more than one caregiver cultivating medical marijuana resides in the dwelling unit;
6. A ventilation and filtration system ensures odors from the cultivation activities are not detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit;
7. Marijuana and medical marijuana plants are grown in an enclosed and locked space;
8. All personal cultivation of marijuana and medical marijuana shall be limited to an area of one hundred fifty (150) square feet for a single-family dwelling detached or seventy five (75) square feet for all other dwelling unit types and accessory structures;
9. The person growing, cultivating, or processing marijuana or medical marijuana within a residential or accessory structure owned by another person or entity obtains the written consent of the property owner. The written consent of the property owner must be furnished to any requesting City official. If the person growing, cultivating, or processing marijuana or medical marijuana does not provide the City official with the written consent of the property owner, the City may inform the property owner of the marijuana or medical marijuana related activities occurring on the property; and
10. The residential unit or accessory structure shall be and remain at all times in compliance with all applicable City regulations including, but not limited to, Zoning, Building, Housing and Fire Codes.

Q. Short Term Rental Units: A short term rental unit is allowed as an accessory use in all residential zone districts, however, all conditions and requirements for a short term rental unit permit listed in article 5, part 17 of this chapter shall be met for a short term rental unit to be operated. (Ord. 94-107; Ord. 01-42; Ord. 02-98; Ord. 02-125; Ord. 02-153; Ord. 03-74; Ord. 03-127; Ord. 03-157; Ord. 06-161; Ord. 09-70; Ord. 09-80; Ord. 10-42; Ord. 10-107; Ord. 11-19; Ord. 12-76; Ord. 14-8; Ord. 16-52; Ord. 18-4; Ord. 18-112)

[Footnote 1](#): See Colo. Const. art. XVIII, §1 for definitions of "medical use", "patient", "primary caregiver" and "registry identification card".

## PART 2 COMMERCIAL DISTRICTS

**7.3.201: PURPOSE:**

**7.3.202: PURPOSE AND SPECIFIC REQUIREMENTS OF INDIVIDUAL ZONES:**

**7.3.203: PERMITTED, CONDITIONAL AND ACCESSORY USES:**

**7.3.204: OFFICE, COMMERCIAL, INDUSTRIAL AND SPECIAL PURPOSE ZONE DISTRICT DEVELOPMENT STANDARDS:**

**7.3.205: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:**

**7.3.201: PURPOSE:**  

A. The purposes of this part are to:

1. Provide appropriate areas for commercial retail, service, and office uses required by the residents of the City in a manner which is consistent with the Comprehensive Plan.
2. Provide adequate space for commercial uses and their accompanying activities including off street parking, loading areas, pedestrian circulation, landscaping, and accessory uses.
3. Ensure compatibility with adjacent land uses and eliminate excessive noise, illumination, unsightliness, odor, smoke, and other objectionable influences.
4. Minimize traffic congestion and the overloading of utilities.
5. Provide areas for employment opportunities and commercial services for existing and future residents of the City and nearby areas.
6. Provide for land uses which meet the need of and attract regional populations in addition to the residents.

B. The commercial districts are:

OR	Office residential
OC	Office complex
PBC	Planned business center
C-5	Intermediate business
C-6	General business

(Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.3.202: PURPOSE AND SPECIFIC REQUIREMENTS OF INDIVIDUAL ZONES:**  

The following statements describe the purpose and intent of each of the commercial zone districts. Uses allowed in these zones are listed in section [7.3.203](#) of this part, with development standards

listed in section [7.3.204](#) of this part. Commercial uses which are subject to additional standards are listed and described in section [7.3.205](#) of this part.

A. OR - Office residential: This transitional zone district accommodates a variety of residential unit types and offices. The zone is directed to smaller office sites which need a careful evaluation of use to use compatibility such that the stability and value of the surrounding neighborhood is best protected.

A development plan which conforms to this Zoning Code is required at the time of the establishment of an OR zone district. Emphasis in the development plan review will be placed on the compatibility of the development to the immediate surrounding property. Critical aspects of the plan include, but are not limited to, siting of the building, screening, landscaping and internal traffic movement.

B. OC - Office complex: This zone district accommodates various types of office uses performing administrative, professional and personal services. These are typically small office buildings developed in a cluster with an internal traffic system or one larger office building with considerable landscaping. This type of development can serve as a transitional use between more intensive uses of land such as major thoroughfares and/or commercial districts and the less intensive uses of land such as low density residential.

C. PBC - Planned business center: This zone district accommodates commercial land uses and preserves and enhances areas for a range of retail sales and service establishments.

D. C-5 - Intermediate business: This zone district accommodates general commercial uses that are of moderate intensity. The emphasis of the zone is placed on individual sites which in some cases will be located near established residential zoning.

E. C-6 - General business: This zone district accommodates general commercial uses that are typically high volume traffic generators and are generally dependent on more than the immediate neighborhood for their market area. (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 09-70)

### **7.3.203: PERMITTED, CONDITIONAL AND ACCESSORY USES:**

The following table designates uses allowed in the office, commercial, industrial, traditional neighborhood development and special purpose districts. Principal permitted uses are shown as P, conditional uses are shown as C (see also note 3 of the table in this section) and accessory uses are shown as A. All uses allowed in a specific PUD (see note 1 of the table in this section) or FBZ (see note 5 of the table in this section) zone district and related development standards shall be determined at the time of zone district establishment or change. The use and development of an individual site are subject to the standards of its determined zone, the applicable landscaping, parking, sign, and general site development standards listed in this Zoning Code. Uses not listed in the table may be allowed as principal permitted, conditional and accessory uses in any district where similar uses are allowed in conformance with this Zoning Code. The description of land use types listed in article 2, part 3 of this chapter shall be used to assist with the determination of land uses and categories.

#### **PERMITTED, CONDITIONAL AND ACCESSORY USES**

OFFICE, COMMERCIAL, INDUSTRIAL, TRADITIONAL NEIGHBORHOOD DEVELOPMENT,  
SPECIAL PURPOSE AND FORM BASED ZONE DISTRICTS<sup>1,3,5</sup>

Use Types	O R	O C	PB C	C - 5	C - 6	PI P- 1	PI P- 2	M - 1	M - 2	P F	P K	PC R	AP D	TN D
Residential use types:														
Accessory dwelling unit				P										P
Detoxification center	C	P	C	C	C					P				P
Dormitory, fraternity or sorority house		P	C	P	C			C				P		P
Human service establishments:														
Domestic violence safe house	P	P	P	P	P			C						P
Family support residence	P	P	C	P	C			C						P
Human service facility:	P	P	C	P	C			C						P
Hospice	P	P	C	P	C			C						P
Residential childcare facility	P	P	C	P	C			C						C

	Human service home	P	P	C	P	C			C						P
	Human service residence:	P	P	C	P	C			C						P
	Family care home	P	P	C	P	C			C						P
	Large family care home	C	P	C	P	C			C						C
	Human service shelter:	C	P	C	P	C	C	C	C						C
	Drug or alcohol treatment facility	C	P	C	P	C	C	C	C						C
	Multi-family dwelling	C	P	C	P	C			C						P
	Retirement home		P	C	P	C			C						P
	Rooming or boarding house		P	C	P	P			C	C			P		P
	Single-family detached dwelling on individual lot	P	P	C	P	C			C						P
	Manufactured home	P	P	C	P	C			C						P
	Two-family dwelling on	P	P	C	P	C			C						P

	an individual lot														
Office use types:															
	Call center	P	P	P	P	P	P	P	P	P				P	P
	Financial services		P	P	P	P	P	P	P	P				P	P
	General offices	P	P	P	P	P	P	P	P	P				P	P
	Medical offices, labs and/or clinics	P	P	P	P	P	P	P	P	P				P	P
	Mixed office/residential use	P	P	C	P	C			C	C					
Commercial use types:															
	Agricultural sales and service			P	P	P			C	C					P
Automotive and equipment services:															
	Automotive service <sup>4</sup>			P	P	P			P	P					C
	Automotive rentals <sup>4</sup>		P	P	C	P			C	C				P	
	Automotive repair garage <sup>4</sup>			C	C	P	P	P	P	P				C	C

	Automotive sales <sup>4</sup>			C	C	P			C	C					
	Automotive storage yard					P			P	P					
	Automotive wash			P	C	P			C	C					C
	Body and fender repair services					P			P	P					
	Construction equipment business								C	P					
	Equipment rental and sales					C			P	P					
	Equipment repair services								P	P					
	Equipment storage yard					C	C	C	C	P					
	Bar			P	P	P			C	C			P	P	P
	Bed and breakfast inn	C	P	P	P	P			C	C					P
	Building maintenance services				P	P		P	C	C					
	Business office support services		P	P	P	P	P	P	P	P				P	P

Business park		C	P	P	P	P	P	P	P	P				P	P
Campground			P	P	P						P	P	P		
Commercial center			P	P	P			C	C					P	P
Communication services	P	P	P	P	P	P	P	P	P					C	P
Construction sales and services			P	P	P			P	P						P
Consumer convenience services			P	P	P			C	C						P
Consumer repair services			P	P	P			C	C						P
Crematory services				C	C			P	P						
Data center			P	P	P	P	P	P	P						
Exterminating services					P	P	P	P	P						P
Food sales:															
Convenience food sales			P	P	P			C	C					P	P
General food sales			P	P	P			C	C						P
Specialty food sales		C	P	P	P			C	C					P	P



	Funeral services:	P	P	P	P	P									P
	Crematory services (as an accessory use)			C	C	C									C
	Hookah bar			C	C	C			C	C					C
	Hotel/motel		C	P	P	P			C	C			P	P	P
	Kennels:														
	Indoor			C	C	P			P	P					
	Indoor and outdoor				C	C			P	P					
	Animal shelters					C					P				
	Liquor sales			P	P	P			C	C					P
	Medical marijuana facility:														
	Medical marijuana center	7	7	P	P	P	A <sup>6</sup>	A <sup>6</sup>	A <sub>6</sub>	A <sub>6</sub>					
	Medical marijuana infused product manufacturer - nonhazardous	7	7	C	C	C	C	C	P	P					
	Optional premises	7	7	C	C	C	C	C	P	P					

	cultivation operation														
	Miniwarehouses		C	P	C	P	C	P	P	P	P				
	Mixed commercial-residential		C	P	P	P									P
	Mixed office-residential		C	P	P	P									P
	Personal consumer services		P	P	P	P			C	C				P	P
	Personal improvement services			P	P	P			C	C				P	P
	Pet services			P	P	P			C	C				C	P
	Pharmacy	A	P	P	P	P			C	C				P	P
	Recreation, commercial:														
	Indoor entertainment			P	P	P	C	C	C	C			C	C	P
	Indoor sports and recreation			P	P	P	C	C	C	C			C	C	P
	Outdoor entertainment					P			C	C			C		P
	Outdoor sports and recreation			C		P	C	C	C	C			C	P	P

	Restaurants:														
	Drive-in or fast food		C	P	P	P	C	C	C	C			C	P	
	Quick serve restaurant		P	P	P	P	C	C	C	C		P	P	P	
	Sit down - served at table		P	P	P	P	C	C	C	C		P	P	P	P
	Retail, general:			P	P	P			C	C			P	P	P
	Large retail establishment			P	P	P			C	C			C	P	P
	Neighborhood serving retail		C	P	P	P							P	P	P
	Sexually oriented business			P	P	P				P					
	Surplus sales					P			C	C					P
	Teen club/young adult club			C	C	C			C	C					P
	Veterinary service:														
	Large animal hospitals								P	P					

	Small animal clinics			P	P	P			P	P					P
Civic use types:															
	Administrative/safety services									P					P
	Cemetery	C	C	C	C	C	C	C	C	C	P				P
	Club (membership, social and recreational)			P	P	P	P	P	C	C				C	P
	Community gardens	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Cultural services	C	C	P	P	P			C	C	P	P	C	P	P
	Daycare services	C	P	P	P	P	C	C	C	C				C	P
	Detention facilities/half way houses										P				
Educational institutions:															
	Charter school	C	C	P	P	P	C	C	C		P				P
	College and university	C	C	P	P	P	P	P	C					C	P
	Nonpublic schools	C	C	P	P	P	C	C	C						P
	Proprietary schools	P	P	P	P	P	P	P	P					P	P

	Public schools	C	C	P	P	P	C	C	C						P
	Hospital		P	P	C	P	C	C	C	C					P
	Maintenance and service facility							C	P	P	P			P	
	Public assembly			P	P	P			C	C	P				P
	Public park and recreation										P	P		P	P
	Religious institution	P	P	P	P	P	C	C	C						P
	Semipublic community recreation	C	C	C	C	C	C		C	C					P
	Social service center			P		P			C						P
	Utility facilities										P				
	Industrial use types:														
	Accessory retail sales (accessory to principal use) <sup>4</sup>						A	A	A	A			A	A	A
	Construction and/or contractor yards				P	P	P	P	P	P					
	Construction batch plant									P					



	Temporary surface and open pit	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Underground (activities above)														
	Underground (activities under)	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Recycling:														
	Large recycling collection center							C	C	P					
	Recycling processing center								C	P					
	Research and development						P	P	P	P				P	P
	Stockyards									P					
	Transfer station								C	P					
	Truck terminal						P	P	P	P				P	
	Vehicle dismantling yard								C	P					
	Warehouse					C	P	P	P	P				P	

	Warehousing and distribution						P	P	P	P				P	
Parking use types:															
Parking lot/surface parking:															
	Private			P	P	P	P	P	P	P	P			P	P
	Public			P	P	P	P	P	P	P	P			P	P
Parking structure:															
	Private			C	P	P		C	C	C	P			P	P
	Public			C	P	P		C	C	C	P			P	P
Transportation use types:															
	Aviation facilities													P	
	Railroad facilities										A				P
	Transit shelter	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Transportation terminal					P	C	C	C	C				P	P
Agricultural use types:															
	Commercial greenhouse			P	P	P	P	P	P	P					P
	Stable, commercial											P			



Miscellaneous use types:															
Broadcasting tower	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
CMRS facilities <sup>2</sup>															
Landfill (putrescible and nonputrescible)									C	P					

Notes:

1. Unless otherwise permitted by this Zoning Code, all uses permitted in a specific PUD zone district shall be determined at the time of zoning.
2. See section [7.4.603](#) of this chapter for additional CMRS information.
3. Development plan required for all conditional uses and when required per section [7.5.502](#) of this chapter.
4. See section [7.3.205](#) of this part for additional standards for specific land uses.
5. Unless otherwise permitted by this Zoning Code, all uses permitted in a specific FBZ zone district shall be determined at the time of zoning and described in the zone specific regulating plan.
6. In accord with subsection [7.3.205C](#), "Accessory Retail Sales And Services", of this part.
7. Refer to section [7.3.205](#) of this part for additional standards for MMJ facilities located within the OR and OC zone districts.

(Ord. 80-131; Ord. 81-102; Ord. 86-39; Ord. 86-117; Ord. 86-119; Ord. 90-108; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 01-173; Ord. 02-97; Ord. 02-125; Ord. 02-153; Ord. 03-74; Ord. 03-110; Ord. 03-157; Ord. 06-55; Ord. 06-162; Ord. 09-73; Ord. 09-88; Ord. 10-42; Ord. 10-107; Ord. 12-66; Ord. 16-53; Ord. 17-30)

**7.3.204: OFFICE, COMMERCIAL, INDUSTRIAL AND SPECIAL PURPOSE ZONE DISTRICT DEVELOPMENT STANDARDS:**  

The following table lists the development standards for the office, commercial, industrial, and special purpose districts. These standards include the minimum and maximum district size, minimum lot area, minimum lot width, maximum building height, minimum building setbacks, maximum lot coverage and landscaping setbacks. Other site development standards relating to items such as landscaping, parking, signs, fences, lighting, and preservation areas and exceptions relating to building height, lot area and width, and setback requirements are listed in [article 4 of this chapter](#) and apply to development in these zone districts.

DEVELOPMENT STANDARDS  
OFFICE, COMMERCIAL, INDUSTRIAL AND SPECIAL PURPOSE ZONE DISTRICTS

STANDARD	OR	OC	PBC	C-5	C-6	PIP-1	PIP-2	M-1	M-2	PF	PK	PCR	APD
Minimum district size		10,000 sq. ft.	1 acre			10 acres	20 acres			1	2	35 acres	1
Maximum building height	35 ft.	45 ft.	45 ft.	45 ft.	50 ft.	45 ft.	45 ft.	40 ft.	80 ft.	1	2	1	1
Minimum lot area	5,000 sq. ft.					1 acre <sup>7</sup>	0.5 acre <sup>7</sup>		1	1	2	1	1
Minimum lot width	50 ft.							1	1		2	1	
Minimum setbacks :											2	1	
Front	25 ft.	25 ft. <sup>4,7</sup>	25 ft. <sup>4</sup>	20 ft. <sup>4</sup>	<sup>6</sup>	50 ft. <sup>4,7,8</sup>	25 ft. <sup>4,7</sup>	20 ft.	<sup>6</sup>	1	2	1	1
Side	5 ft. <sup>3</sup>	20 ft. <sup>5,7</sup>	25 ft. <sup>5</sup>	3	<sup>6</sup>	30 ft. <sup>5,7</sup>	10 ft. <sup>5,7</sup>	3	<sup>6</sup>	1	2	1	1
Rear	20 ft.	20 ft. <sup>5,7</sup>	25 ft. <sup>5</sup>	20 ft. <sup>5</sup>	<sup>6</sup>	50 ft. <sup>5,7</sup>	25 ft. <sup>5,7</sup>	10 ft. <sup>3</sup>	<sup>6</sup>	1	2	1	1
Adjacent to residential						100 ft.	100 ft.			1	2	1	1
Maximum lot	50 %	40% <sup>7</sup>				30% <sup>7</sup>	40% <sup>7</sup>			1	2	1	1

coverage													
Landscape setbacks	6	6	6	6	6	6	6	6	6	6	2	6	6

Notes:

1. Development standards are determined by the review of the concept or development plan at the time the zone is established.
2. All development activities and standards shall be determined by a master plan which shall be reviewed by the Parks Board.
3. When adjacent to a residential zone, the setback will be the same as the residential zone.
4. Noted front setbacks apply only to property lines adjacent to public streets. Interior front setbacks for lots contained within unified retail or office developments shall be determined in conjunction with review of the development plan.
5. Noted side and rear setbacks apply only to the side and/or rear property lines on the periphery of the development. Side and rear setbacks for lots contained within a unified development shall be determined in conjunction with review of the development plan.
6. Minimum building and parking lot setbacks shall be determined by compliance with the landscape and parking requirements as listed in [article 4 of this chapter](#). For landscape setbacks, see article 4, part 3 of this chapter.
7. OC and PIP zoned developments may utilize a platting configuration whereby the platted lot is sized to accommodate only the proposed building if all of the required landscaping, parking, drive and maneuvering areas are included in a commonly owned and maintained tract. In this case, the minimum lot area, minimum setbacks from the platted lot lines, and maximum lot coverage standards shall be determined in conjunction with the review of the development plan. However, all buildings must comply with the standard OC and PIP-1 and PIP-2 building setbacks as measured from the periphery of the project boundaries.
8. May be reduced to 30 feet if fully landscaped from property to building line.

(Ord. 80-131; Ord. 87-140; Ord. 90-108; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-73; Ord. 12-66)

**7.3.205: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:**  

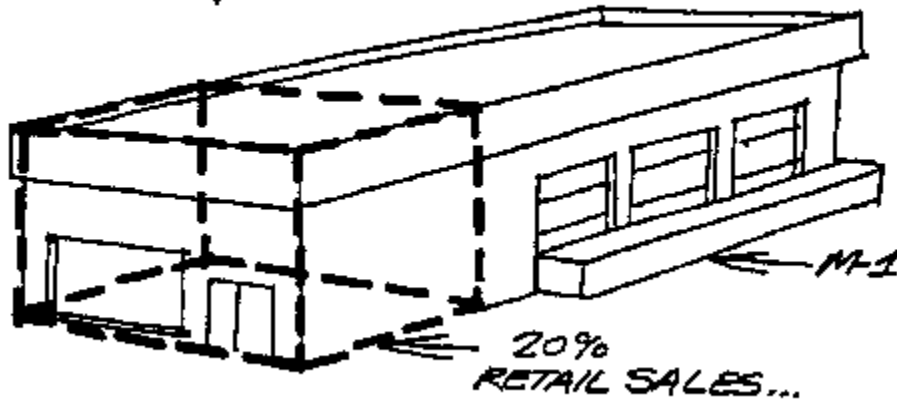
Individual standards designed to mitigate impacts apply to many uses allowed in the office, commercial, industrial, and special purpose zone districts. These standards are in addition to the development standards and the general site development standards contained in this Zoning Code. For development standards for residential uses which are also allowed in the office and commercial zone districts, use the residential standards listed under the R-5 Zone in the table "Agricultural, Residential, Special Use And Traditional Neighborhood Development Zone District Development Standards", in section [7.3.104](#) of this article, and the descriptions in section [7.3.105](#) of this article.

- A. Agricultural Sales/Nursery: Agricultural sales and nurseries are allowed in PBC and C-5 Zones as accessory uses. When conducted outside, they shall be contained within an opaque and screened area.

B. Accessory Structures And Accessory Uses: Accessory structures are allowed in the following zone districts: OR, OC, PBC, C-5, C-6, PIP-1, PIP-2, M-1, M-2, PCR, APD and PF. Residential accessory uses may be added to lots where the existing principal use is residential without requiring the approval of a new or amended conditional use.

C. Accessory Retail Sales And Services: Retail sales and services are allowed in the PIP-1, PIP-2, M-1 and M-2 Zone Districts. They may be operated on the same lot and in conjunction with uses that are specifically allowed in a specific district. In the M-1 Zone, retail sales must be conducted within the same building as the principal permitted use and shall not occupy more than twenty percent (20%) of the gross floor area of the principal building. In the PIP-1, PIP-2 and M-2 Zones, retail sales may be conducted outside the principal building, but the combined sales area of both inside and outside the principal building shall not occupy more than thirty percent (30%) of the gross floor area of the principal building.

## Accessory Sales and Service



D. Automobile Repair Garage: This use must meet the following conditions:

1. Body and fender work are not allowed;
2. All work is done within a building;
3. Outside storage of automotive parts or junk vehicles is prohibited; and
4. The nearest point of the building in which the activity occurs is more than one hundred feet (100') from the boundary of a residential district measured in a straight line.

E. Automobile Sales And Rentals: The following standards shall apply:

1. In the event automobile repair services are provided within the same building or on the same property as a sales or rental lot, the provisions outlined in subsection D of this section shall apply.
2. Vehicles shall not be displayed within designated landscape areas unless otherwise shown on an approved development plan.

F. Construction Equipment: A contractor yard is allowed in the C-6, PIP-1, PIP-2, M-1 and M-2 Zone Districts while a construction equipment business is allowed only in the M-2 Zone and conditional in M-1. This use shall be entirely contained within a building or yard which is enclosed on all sides by a wall or solid type fence at least six feet (6') in height. Such walls or fences shall be kept in good repair at all times.

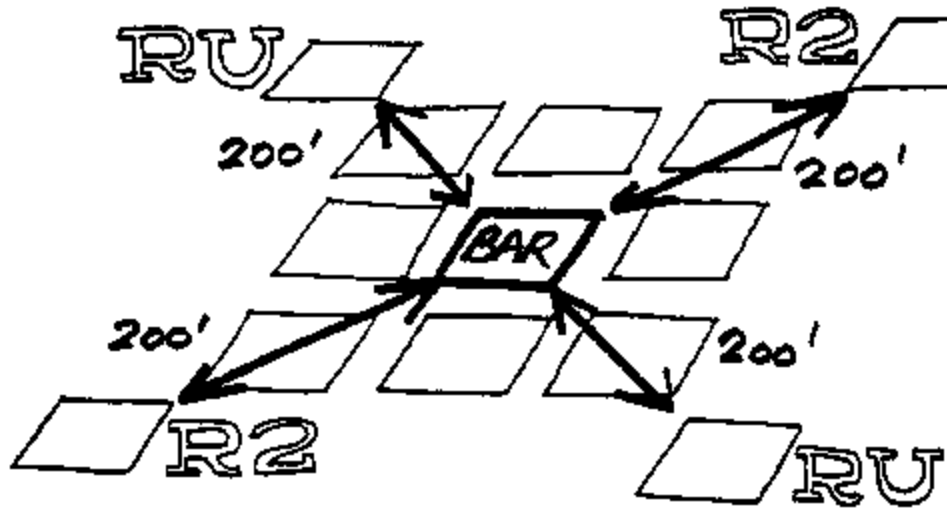
G. Garbage Service Company: A garbage service company use is a conditional use in the M-1 and M-2 Zone Districts. The use shall be entirely contained within a building or yard which is enclosed on all sides by a wall or solid type fence at least six feet (6') in height. Such walls or fences shall be kept in good repair at all times.

H. Junkyard: A junkyard is allowed in an M-2 Zone District and a conditional use in the M-1 Zone District. This term includes junkyards and automobile storage yards and dismantling yards. The operation shall be carried on entirely within the building or yard which is enclosed on all sides by a wall or solid type fence at least six feet (6') in height. Any salvage or other parts or any materials shall not be stored or kept in said yards at a level higher than the surrounding fence. Such yards shall be kept in good repair and be provided with appropriate maintenance at all times.

I. Landfill: Landfills are a principal permitted use in the M-2 Zone District and a conditional use within the M-1 Zone District subject to approval of a certificate of designation by the Health Department and approval of a grading plan by the Community Development Department.

J. Liquor Establishment: A liquor sales establishment is allowed in the TND, PBC, C-5 and C-6 Zone Districts and a conditional use within the M-1 and M-2 Zone Districts. On premises liquor establishments in the specified zone districts shall be located no closer than two hundred feet (200') from any residentially used or zoned property. The measurement shall be from the property/lot line of the liquor establishment to the property/lot line of the residentially zoned/used property. The distance requirement shall not apply if the residentially zoned property is separated from the property of the establishment by a "major street" as defined in the City's Subdivision Code or if the residentially zoned property is City owned. The distance requirement shall be measured as a straight line from property lot/line to property lot/line. The distance requirements of this subsection shall not apply to an on premises liquor establishment which is also a restaurant if the bar area does not constitute more than thirty five percent (35%) of the floor area.

# Liquor Establishment



K. Marijuana Consumption Club Facility (MCC Facility): MCC facilities are prohibited within the City limits unless prior to September 22, 2015, the MCC facility was lawfully operating pursuant to the "similar use determination" of the Manager, dated May 28, 2014. Those MCC facilities operating pursuant to the similar use determination shall be considered nonconforming uses under this Zoning Code, must be licensed by the City of Colorado Springs and shall cease operations no later than March 22, 2024. No MCC facility shall operate or permit any person upon the licensed premises without a ventilation and filtration system that ensures odors are not detectable by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit. Any MCC facility operating after March 22, 2024, shall be considered an unlawful use under this Zoning Code.

L. Marijuana Uses, Other: In any zoning district, it shall be a violation of this Zoning Code to utilize or permit to be utilized any property in the following manner:

1. To operate a retail marijuana establishment.
2. To transfer or permit the transfer of marijuana or marijuana concentrate at no cost to a person if the transfer is in any way related to remuneration for any other service or product.
3. To grow, cultivate, or process marijuana or medical marijuana unless in conformance with the requirements contained in subsection [7.2.302C22](#) of this chapter, subsection [7.3.105P](#) of this article and subsection M of this part.
4. As used in this section, marijuana and marijuana concentrate shall have the same meanings as set forth in section [9.7.206](#) of this Code.
5. In addition to any other competent evidence identifying a substance as marijuana, or marijuana concentrate, results of the field test known as the "Duquenois-Levine Reagent System" shall be

admissible in evidence and shall be prima facie evidence of whether or not the substance tested was marijuana or marijuana concentrate.

M. Medical Marijuana Facility (MMJ Facility): A medical marijuana facility shall be subject to the following additional standards:

1. The MMJ facility is prohibited within a residential zone district or dwelling unit, to the extent the facility is not subject to an exception pursuant to subsection [7.3.105P](#) of this article.
2. The MMJ facility must hold valid local and State medical marijuana business licenses and local and State Sales Tax licenses, as applicable.
3. On premises use, consumption, ingestion, or inhalation within an MMJ facility is prohibited.
4. The MMJ facility shall install, maintain and operate an adequate ventilation and filtration system that ensures odors are not detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit.
5. A medical marijuana center (MMC) shall be located no less than one thousand feet (1,000') from any public or private elementary, middle, junior high or high school, or a residential childcare facility, or a drug or alcohol treatment facility, or any other MMC. This minimum distance shall be measured from the nearest portion of the building used for the MMC to the nearest property line of the school, residential childcare facility, drug or alcohol treatment facility, or other MMC using a route of direct pedestrian access.
6. City Council specifically finds and determines that it is in the best interests of the public health, safety and welfare to forego zoning enforcement action against those MMJ facilities located within the Office Residential (OR) or Office Complex (OC) Zone Districts that: a) otherwise complied with the City's application procedure found in chapter 2, article 2, part 1 of this Code, and b) are subsequently granted State and local medical marijuana business licenses. So long as these qualified MMJ facilities obtain and maintain State and local medical marijuana business licenses at the locations identified in the application, the City will forgo any adverse zoning enforcement action related to that MMJ facility use in the OR or OC Zone.

This zoning enforcement forbearance only applies to the identified and qualified MMJ facilities owned or operated by the person or entity identified in the preapplication and shall not run with the land. Should these identified MMJ facilities cease operations for any period of time in the facilities' current OR or OC Zone, the City shall enforce zoning restrictions against the reestablishment of, or any expansion of any existing MMJ facility, or any proposed new MMJ facility seeking to locate in any OR or OC Zone. No MMJ facility located in an OR or OC Zone District shall be declared a legal nonconforming use or be granted any "grandfathered" land use rights.

N. Mining Operations:

1. Conditional Uses: Mining operations shall be allowed within the City as conditional uses only and shall be limited to the following zones and specifications:
  - a. Open pit mining, surface and underground mining with activities above ground are a conditional use in the Agricultural Zone;

b. Temporary surface, open pit and underground mining with activities underground are a conditional use within the A, OR, OC, PBC, C-5, C-6, PIP-1, PIP-2, M-1, M-2, PCR, APD and PF Zone Districts.

2. Application And Review Criteria: In order to establish mining operations as described above, a conditional use which provides additional information specified by the City and conforms to article 5, part 7 of this chapter must be approved, and the following criteria must be met:

a. The property values of the land surrounding the conditional use will not be substantially reduced;

b. The mode and quality of life in any area of the City will not be adversely affected by the proposed mining operation;

c. The noise attributable to the mining operation will be in conformance with section [9.8.104](#) of this Code;

d. The dust attributable to the mining operation will be within State and Federal standards;

e. The road and highway traffic attributable to the mining operation will not adversely affect the City traffic system by causing unreasonable congestion or excessive deterioration of such system;

f. The mining operations will not cause or create adverse drainage and sewage problems;

g. An underground mining operation will not unreasonably interfere with the present or anticipated surface used by causing subsidence, vibrations, or dust;

h. The mining operation is in conformance with the Comprehensive Plan of the City and the Master Plan for Extraction of Commercial Mineral Deposits which was adopted July 1, 1975; and

i. The mining reclamation plan and time schedule are acceptable to the City.

3. Bond: If the conditional use is approved by the City Council, the mining operator shall post a bond with the City. The amount of the bond shall be set by the City and will be in an amount sufficient to ensure carrying out the mining reclamation plan.

4. Explosives: For use/storage/handling of explosives, contact the Colorado Springs Fire Department. All dynamite shot plans must be reviewed by the Colorado Springs Fire Department.

O. Outdoor Storage Of Materials And Outside Display Of Merchandise: This subsection addresses the permanent outdoor storage of materials and display of merchandise for businesses and commercial uses. Outside storage of materials and display of merchandise is an important element for specific uses and requires the following additional standards for review:

1. Temporary nonpermanent storage or display of materials and merchandise are addressed in article 5, part 14 of this chapter. Temporary uses are allowed only when a temporary use permit has been reviewed and approved by the Manager.

Seasonal sale of merchandise (for example, an area within the parking lot to display seasonal merchandise, such as Christmas tree sales, produce and landscape plants and materials) shall require an approved temporary use permit. Seasonal sale locations do not have to be shown on the development plan; however the temporary use permit will involve a review of the site plan by the



Manager to determine that adequate required parking spaces still remain and that the use meets the applicable review criteria.

2. Permanent outside storage of materials and display of merchandise may be allowed as a result of a development plan review and are subject to the following standards, criteria and specific provisions:
  - a. Outdoor storage of material includes, but is not limited to, the following items: bunks of lumber, pallets of material, unassembled products, baled cardboard, defective/old appliances, scrap material or loose materials such as gravel, mulch or discarded materials, and storage pods, trailers and sheds.
  - b. Outdoor storage will require full buffer screening from adjacent properties and public rights-of-way.
  - c. Outside display of merchandise includes all items for sale, including, but not limited to, the following: vehicles, equipment, sheds, grills, lawn mowers, lawn furniture, produce, landscape plants and materials.
  - d. Outdoor display of merchandise will require buffer screening from adjacent different land use types and public rights-of-way. This use cannot reduce the required parking, and the location of the outdoor display must be in proximity to the main entrance of the primary structure.
  - e. Buffer screening is considered adequate regardless of topographic conditions if it includes a screening wall or an opaque fence which is at least six feet (6') in height, and in no event shall materials and merchandise be stacked or stored higher or exceed the height of the wall or fence.
  - f. Areas for permanent storage and display shall be clearly identified on an approved development plan or site plan.
  - g. Vehicle sale and rental: Display and storage areas are allowed in conjunction with an approved development plan without buffer screening.
  - h. Equipment rental and sales: At the time of development plan review, it shall be determined whether the rental or sale use is allowed within the zone district in which it is proposed. This type of outdoor storage and display may either be a principal use or may be accessory to a principal use, when located next to the main structure, and both types require buffer screening.
  - i. Construction/contractor yards: Storage areas are allowed in conjunction with an approved development plan with buffer screening.
  - j. Sidewalk outside display; grills/lawn mowers, etc.: The display of merchandise is usually located immediately adjacent to the principal building's entrances and will be allowed if the following criteria are met:
    - (1) The display area is shown on the approved development plan;
    - (2) It is adjacent to the main structure;
    - (3) It provides a minimum of five feet (5') for adequate pedestrian traffic; and
    - (4) It does not block fire access or impede the traffic flow in front of the building.

k. In the OR and OC Zone Districts, outdoor storage of materials and display of merchandise related to nonresidential uses is prohibited.

P. Pharmacy: A pharmacy is allowed in the OR Zone District if incidental to other medical or dental office(s) in the same building.

Q. Residential Dwelling Units:

1. Residential dwelling units, where allowed in the OR, OC, PBC, C-5, C-6 and M-1 Zone Districts, shall comply with the R-5 Zone District standards.
2. One- and two-family residential uses are principal permitted uses within the OR, OC and C-5 Zones. One- and two-family residential uses are conditional uses within the PBC, C-6 and M-1 Zones. Multi-family residential uses are principal permitted uses within the OC and C-5 Zones. Multi-family residential uses are conditional uses within the OR, PBC, C-6 and M-1 Zones. The addition of a detached residential accessory structure complying with the development standards within this Zoning Code does not require approval of a conditional use.
3. In the M-2 Zone District, no new dwelling units or conversions of existing buildings to provide new dwelling units are permitted, except accessory buildings which are incidental to the use of the land.
4. No recreational vehicle shall be used as a dwelling unit on property zoned OR, OC, C-5, C-6, PBC, M-1, M-2, PIP-1 or PIP-2.
5. Where residential dwelling units are allowed in the PUD, OR, OC, PBC, C-5, C-6 and M-1 Zone Districts, a short term rental unit is allowed as an accessory use, however, all conditions and requirements for a short term rental unit permit listed in article 5, part 17 of this chapter shall be met for a short term rental unit to be operated.

R. Small Collection Units, Large Collection Centers And Processing Centers:

1. Small recycling collection centers:
  - a. Recycling activities shall be conducted either in an enclosed structure or container or in an area enclosed on all sides by a screening wall or solid fence that is at least six feet (6') in height. In no event shall materials be stacked or stored to exceed the height of the screening fence or wall.
  - b. Shall utilize off site and on site management techniques used to protect against litter and debris.
  - c. Shall not reduce the required landscaping.
  - d. The use shall not reduce the required off street parking spaces of the principal permitted uses on the site below the minimum parking requirements as described in section [7.4.203](#) of this chapter.
  - e. Shall not intrude into drive aisles so as to impede circulation or line of sight.

f. Where the use is an "accessory use" as defined in section [7.2.201](#) of this chapter, power driven light processing activities required for the temporary storage and shipment of materials, including compacting, baling and paper or plastic shredding, shall be permitted.

2. Large recycling collection centers:

a. If the subject property is zoned M-1 or PIP-2, this use is a conditional use in accord with the provisions of section [7.5.704](#) of this chapter and is subject to development plan review and approval.

b. If the subject property is zoned M-2, this use is a principal permitted use subject to development plan review and approval.

c. If the subject property is zoned PIP-2 or M-1, use shall be conducted either in an enclosed structure or in an area enclosed on all sides by a screening wall or solid fence that is at least six feet (6') in height. In no event shall recyclable materials be stacked or stored to exceed the height of the screening fence or wall.

d. Development plan shall indicate off site and on site management techniques used to protect against litter and debris.

e. Any outside storage shall meet all landscape setbacks of the underlying zone district.

f. Parking shall be provided at a ratio of one space per one thousand (1,000) square feet of gross floor area.

g. The Manager may approve power driven light processing activities required for the temporary storage and shipment of materials, including compacting, baling and paper or plastic shredding through development plan review.

3. Recycling processing centers:

a. If the subject property is zoned M-1, this use is a conditional use in accord with the provisions of section [7.5.704](#) of this chapter and is subject to development plan review and approval.

b. If the subject property is zoned M-2, this use is a principal permitted use subject to development plan review and approval.

c. This use shall be conducted either in an enclosed structure or in an area enclosed on all sides by a screening wall or solid fence that is at least six feet (6') in height. In no event shall recyclable materials be stacked or stored to exceed the height of the screening fence or wall.

d. The development plan shall list or explain off site and on site management techniques used to protect against litter and debris.

e. Any outside storage shall meet all landscape setbacks of the underlying zone district.

f. Parking shall be provided at a ratio of one space per one thousand (1,000) square feet of gross floor area.

g. Shall comply with the laws, standards, rules, and regulations of the Air Quality Control Commission, the Water Quality Control Commission, and the Colorado Department of Public Health and Environment, where applicable.

S. Transfer Stations:

1. If the subject property is zoned M-1, a transfer station is a conditional use in accord with the provisions of section [7.5.704](#) of this chapter and is subject to development plan review and approval.
2. If the subject property is zoned M-2, this use is a principal permitted use subject to development plan review and approval.
3. Shall be conducted either in an enclosed structure or in an area enclosed on all sides by a screening wall or solid fence that is at least six feet (6') in height. In no event shall recyclable materials be stacked or stored to exceed the height of the screening fence or wall.
4. Development plan shall indicate off site and on site management techniques used to protect against litter and debris.
5. Any outside storage shall meet all landscape setbacks of the underlying zone district.
6. Parking shall be provided at a ratio of one space per one thousand (1,000) square feet of gross floor area.
7. Shall comply with the laws, standards, rules, and regulations of the Air Quality Control Commission, the Water Quality Control Commission, and the Colorado Department of Public Health and Environment, where applicable.

T. Veterinary Clinics And Animal Hospitals: All veterinary activities must be conducted within a totally and permanently enclosed, soundproofed building and are restricted to small animal care with boarding of animals overnight only due to the animal's medical condition. Outdoor veterinary activities may be allowed within the A (Agricultural) Zone as part of the review of a conditional use development plan.

U. Transit Shelters: Transit shelters are allowed in all of the commercial, industrial and special purpose zone districts. Except for the provisions listed in article 4, part 4 of this chapter, whenever benches, shelters or kiosks have been placed for the convenience of patrons either within or outside of the public rights-of-way under proper permit or authority of the City, the placement and location of the benches, kiosks or shelters shall be exempt from the provisions of this Zoning Code. (Ord. 94-107; Ord. 99-18; Ord. 01-42; Ord. 01-69; Ord. 02-153; Ord. 03-122; Ord. 06-55; Ord. 09-70; Ord. 09-80; Ord. 10-107; Ord. 11-32; Ord. 12-76; Ord. 16-33; Ord. 16-54; Ord. 17-30; Ord. 18-51; Ord. 18-81; Ord. 18-112)

## PART 3 INDUSTRIAL DISTRICTS

**7.3.301: PURPOSE:**

**7.3.302: PURPOSE AND SPECIFIC REQUIREMENTS OF THE INDUSTRIAL ZONE DISTRICTS:**

**7.3.303: PERMITTED, CONDITIONAL AND ACCESSORY USES:**

**7.3.304: DEVELOPMENT STANDARDS:**

**7.3.305: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:**

**7.3.301: PURPOSE:**  


A. The purposes of this part are to:

1. Provide appropriate areas for industrial activities such as manufacturing, research and development, processing or assembly of materials, goods and equipment, and warehousing required by the residents of the City in a manner which conforms to the Comprehensive Plan.
2. Promote consolidation of industrial uses into comprehensively planned areas, and promote a mix of industrial uses that provide the City with a sound, diverse industrial base.
3. Provide adequate space for the industrial uses and their accompanying activities such as off street parking, loading areas, storage, communications, landscaping, and accessory uses.
4. Minimize traffic congestion and the overloading of utilities.
5. Ensure compatibility with adjacent land uses, and eliminate excessive noise, illumination, unsightliness, odor, smoke, hazards, and other objectionable influences.

B. The industrial zones are:

PIP-1	Planned industrial park
PIP-2	Planned industrial park
M-1	Light industrial
M-2	Heavy industrial

(1968 Code §§14-40, 14-42.7; Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.3.302: PURPOSE AND SPECIFIC REQUIREMENTS OF THE INDUSTRIAL ZONE DISTRICTS:**  

The following statements describe the purpose and intent for each of the industrial zone districts. Uses allowed in these zones are listed in section [7.3.203](#) of this article, with development standards listed in section [7.3.204](#) of this article, and industrial uses which are subject to additional standards are listed and described in section [7.3.205](#) of this article.

A. PIP-1 and PIP-2 - Planned industrial park: These zone districts accommodate a limited group of professional, administrative, research, manufacturing and industrial uses with operations which are quiet and clean to ensure the creation and maintenance of an environment which will serve the mutual interest of the community as a whole, any adjacent residential areas, and the occupants of the industrial park in particular. Planned industrial park zone districts shall be located on lands that are suitable for industrial development, have an acceptable relationship to the major thoroughfare plan and applicable master plans, and are held in single ownership or under unified control.

1. Uses allowed in planned industrial park districts are listed in a table in section [7.3.203](#) of this article. Some districts will be located near residential neighborhoods; therefore, it is necessary that all activities including manufacturing, processing or assembly of materials and products be carried on in a manner which is not injurious or offensive to the occupants of surrounding properties. Uses shall not cause:

- a. Glare, vibration, objectionable noise, or emission of smoke, fumes, gas, dust, odor or any other atmospheric pollutant detectable beyond the boundaries of the immediate site; and
- b. Physical hazard by reason of fire, radiation, explosion or similar cause to the property in the same or surrounding district.

2. In order to develop a site in a reasonable manner which will not be detrimental to the public welfare or the interests of the City, regulations governing the height, open area, setbacks, off street parking, and loading and maneuvering area may be modified by the Planning Commission or City Council when a PIP district is established or changed. The differences between the PIP-1 and the PIP-2 districts are generally reflected in the development standards.

B. M-1 - Light industrial: This zone district accommodates light industrial uses and commercial uses that are complementary and compatible to the industrial uses.

C. M-2 - Heavy industrial: This zone district accommodates heavy industrial uses that are likely to have an extensive impact on the surrounding area and are subject to section [7.3.301](#) of this part regarding:

- 1. The provision of appropriate areas for industrial activities;
- 2. The consolidation of industrial uses into comprehensively planned areas;
- 3. The provision of adequate area to accommodate all activities;
- 4. The minimization of traffic congestion and overloading of utilities;
- 5. Ensuring compatibility with adjacent land uses; and
- 6. The mitigation of excessive noise, illumination, unsightliness, odor, smoke, hazards and other objectionable influences. (Ord. 94-107; Ord. 01-42; Ord. 09-70)

**7.3.303: PERMITTED, CONDITIONAL AND ACCESSORY USES:**  

Uses allowed in the industrial districts as principal permitted, principal permitted which require approval of a development plan, conditional, or accessory are listed in a table in section [7.3.203](#) of this article. The use and development of an individual site are subject to the standards of its determined zone, the applicable landscaping, parking, sign and general site development standards and the applicable requirements and procedures of this Zoning Code. Uses which are regulated by additional standards are listed in a table in section [7.3.204](#) of this article. Any similar use not listed in the table may be allowed as a principal, conditional, or accessory use in any district where similar uses are allowed in conformance with section [7.2.108](#) of this chapter. (1968 Code §14-29; Ord. 80-131; Ord. 87-195; Ord. 91-30; Ord. 94-23; Ord. 94-107; Ord. 01-42)

### **7.3.304: DEVELOPMENT STANDARDS:**

The development standards for the industrial districts are listed in a table in section [7.3.204](#) of this article. Other site development standards relating to items such as landscaping, parking, signs, fences, lighting, and preservation areas and exceptions relating to building height, lot area and width, and setback requirements are listed in this Zoning Code and apply to development in these zone districts. (1968 Code §14-42.7; Ord. 80-131; Ord. 86-39; Ord. 86-177; Ord. 87-140; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.3.305: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:**

Specific standards designed to mitigate impacts apply to particular uses allowed in the industrial zone districts. These standards are in addition to the development standards and the general site development standards contained in [article 4 of this chapter](#). For development standards for residential uses which are also allowed in the industrial zone districts, use the residential standards listed under the R-5 zone in the table in subsection [7.3.104A](#) of this article and the descriptions in section [7.3.105](#) of this article. (Ord. 94-107; Ord. 01-42)

## **PART 4 SPECIAL PURPOSE DISTRICTS**

### **[7.3.401: PURPOSE:](#)**

### **[7.3.402: PURPOSE AND SPECIFIC REQUIREMENTS OF THE SPECIAL PURPOSE ZONE DISTRICTS:](#)**

### **[7.3.403: PERMITTED, CONDITIONAL AND ACCESSORY USES:](#)**

### **[7.3.404: DEVELOPMENT STANDARDS:](#)**

### **[7.3.405: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:](#)**

### **7.3.401: PURPOSE:**

A. The purposes of this part are to:

1. Provide appropriate areas for the continuation and expansion of public and semipublic activities such as parks, police and fire stations, and utility production, storage and distribution facilities as required by the residents of the City in a manner which conforms to the Comprehensive Plan.

2. Provide areas for unique mixed use cultural, resort, or recreational uses which meet the needs and attract both residents and visitors from outside the City and region.
3. Provide adequate space for these uses and their accompanying activities such as off street parking, loading areas, storage, landscaping, and accessory uses.
4. Minimize traffic congestion and the overloading of utilities.
5. Ensure compatibility with adjacent land uses, and eliminate excessive noise, illumination, unsightliness, odor, smoke, hazards, and other objectionable influences.

B. The special purpose districts are:

PF	Public Facilities
PK	Public Parks
APD	Airport Planned Development
PCR	Planned Cultural Resort

(Ord. 90-35; Ord. 94-107; Ord. 01-42)

### **7.3.402: PURPOSE AND SPECIFIC REQUIREMENTS OF THE SPECIAL PURPOSE ZONE DISTRICTS:**

The following statements describe the purpose and intent for each of the special purpose zone districts. Uses allowed in these zones are listed in section [7.3.203](#) of this article, with development standards listed in section [7.3.204](#) of this article. Special purpose district uses which are subject to additional standards are listed and described in section [7.3.205](#) of this article.

A. PF - Public Facilities: The Public Facilities Zone District is provided for land which is used or being reserved for a governmental purpose by the City of Colorado Springs, El Paso County, the State of Colorado, the Federal government or a public utility. Generally, the existing or proposed use is a unique governmental or utility service or a governmental function. The term, public facility, may be used to describe the existing or future use or the character of the ownership of the land. For the purpose of this section utility transmission, distribution or collection line rights-of-way or easements and drainage rights-of-way or easements are not required to be designated as public facilities.

Approval of the request requires a determination that a public need exists and the use and location are compatible with adjacent land uses. When necessary to make this determination, conditions regarding setbacks from adjacent uses or property lines, landscaping, screening, access, and the placement and size of signs and amount of parking may be approved with the establishment of the zone district. A development plan shall be approved before any building permits may be issued or before construction of any public facility or utility may begin.

Uses allowed in this zone are limited to governmental functions or utility services provided by the City of Colorado Springs, El Paso County, the State of Colorado, the Federal government or a public utility and to private facilities which perform traditional government functions such as jails



and halfway houses. These uses are not typically permitted or conditional uses in other zone districts. Specific uses are listed in a table in section [7.3.203](#) of this article. Development standards such as lot size, setbacks, and maximum height are determined at the time of zoning or development plan review. Development standards listed in a table in section [7.3.204](#) of this article shall apply to the development of a Public Facility Zone District.

- B. PK - Public Parks: The Public Parks Zone District is intended for land set aside for use as public recreation and open space. These parks may include playground equipment, athletic fields, sport courts, swimming pools, and other facilities and programmed activities normally associated with public parks. Parks may also be reserved for natural or environmental reasons, such as preservation of wildlife, vegetation or significant natural, cultural or historic resources.

The establishment of a Park Zone shall follow procedures outlined in article 5, part 6 of this chapter. Subsequently, all development activities associated with a particular PK Zone shall be in accord with a parks master plan for that zone district which shall be reviewed and approved at a public hearing by the Parks and Recreation Advisory Board. The decision of the Board may be appealed to the City Council or the appropriate governmental agency. The Board or the City Council may add protective restrictions regarding setbacks from adjacent uses or property lines or the location and amount of parking to the approval of the master plan. Amendments to the parks master plan shall follow the procedure required for the original plan. The Director of Parks, Recreation and Cultural Services shall prepare procedures and guidelines for the preparation and administrative processing of parks master plans. In addition, public parks not under the City Parks, Recreation and Cultural Services Department may use this zone as designated parks.

- C. APD - Airport Planned Development: This zone district may be established by following procedures outlined in article 5, part 6 of this chapter. Should ownership or control become diversified after the zone district is established, these regulations and the conditions approved at the time of the zoning shall continue to apply to the whole Airport Planned Development (APD) District as a unit.

1. Development Plan: Before building permits may be issued, a development plan must be approved which conforms to the requirements and procedures set forth in article 5, part 5 of this chapter. The uses on the development plan must conform with the uses designated and set forth on the adopted Colorado Springs Municipal Airport Master Plan.
2. Uses And Standards: Uses allowed in this zone are listed in the table in section [7.3.203](#) of this article. The Community Development Department may approve any similar lawful uses they find are compatible with the principal permitted uses, the requirements of this section, and the development plan.

Development standards such as minimum lot size, setbacks, and maximum height are determined at the time of zoning and development plan review. Development standards shall apply to the development of an APD Zone.

- D. PCR - Planned Cultural Resort: This zone district is intended to provide a framework for the unified development of unique mixed use cultural, resort, or recreational developments intended to attract visitors from both within and outside the Colorado Springs metropolitan area. Due to specialized characteristics and potential impact on the surrounding community, these developments do not easily fit into the intent and purpose of other zone districts.

1. Purpose: The purpose of the Planned Cultural Resort Zone District is:
  - a. To provide for flexibility and innovation of design in order to promote the most suitable use of the site;
  - b. To facilitate efficient and timely provision of streets, utilities, and Municipal services;
  - c. To achieve a compatible land use relationship with the surrounding area;
  - d. To preserve the unique, natural, scenic, historical, and cultural features of the site;
  - e. To encourage a high quality of design in new development; and
  - f. To promote tourism and economic development in the community.
2. Establishment Of A PCR Zone: This district may be established upon any tract of land held under single ownership or under unified control, provided a land use proposal is submitted for the tract in compliance with provisions of this section. The application for the PCR Zone must be accompanied by a regional context plan, a concept plan, and a phasing plan as described below, and it shall follow zone change procedures listed in article 5, part 6 of this chapter. These three (3) documents shall provide an increasingly specific description of the development proposal and how it will relate to the surrounding community. The review of the request shall be based upon these documents. Each PCR Zone is defined by the permitted uses, conditions and design parameters approved at the time of zoning.
3. Regional Context Plan: The purpose of the regional context plan is to illustrate the relationship between the proposed PCR Zone and the surrounding area. The regional context plan is an inventory of existing and proposed land uses, transportation systems, and utility systems, drainage basin boundaries (including special districts), planning area or Master Plan boundaries, existing and planned parks, schools and other public facilities, and significant physical features in the vicinity of the proposed PCR Zone. The boundaries of the area to be covered by the regional context plan shall be determined by the Manager of the Community Development Department who shall consult with appropriate City staff. The applicant shall request this determination before submitting the PCR Zone application. The boundaries of the plan shall be established to include all areas expected to potentially influence or be influenced by the proposed PCR development. Factors to be considered in determining the regional context plan area may include, but are not limited to, topography, visual line of sight, natural ecosystems, transportation systems, utility systems, water and air drainage basins, noise impact, existing subcommunities, Master Plan areas and political jurisdictions.
4. Concept Plan: The concept plan shall consist of a graphic illustration of the proposed development along with accompanying written information describing and justifying the proposed uses, intensity, setbacks, height, buffers, screening, access, vehicular and pedestrian circulation, parking, sign controls, lighting, noise controls, and required public infrastructure for development of the zone district. All subsequent development of the district shall be in conformance with these design parameters established at the time of zoning which are based upon the concept plan review criteria listed below. It is intended that the PCR sketch plan will be more detailed and restrictive on the periphery of the zone and more flexible and general on the interior of the zone. More intensive uses should be clustered near the center of the development with less intensive uses which are more compatible with adjacent land uses located near the perimeter.

The concept plan shall provide the information required by the application forms and instructions provided by the Community Development Department. A concept plan which substantially meets the

objectives of the review criteria listed below and in article 5, part 5 of this chapter may be approved. The Community Development Department may determine that certain criteria may be irrelevant based on the characteristics of the individual project. The concept plan review criteria shall include:

- a. Will the proposed development have a detrimental effect upon the general health, welfare, safety, and convenience of persons residing or working in the neighborhood of the proposed development?
  - b. Is the intensity of development appropriate? Does the design reflect an effort by the developer to blend the project harmoniously into the surrounding area by means of appropriated density, landscape buffering, access points, building types, bulk and placement, and other means?
  - c. Does the proposed density relate to the topography and other natural features of the site? Does the design minimize destruction of desirable natural features and utilize these elements in the project design?
  - d. Are the permitted uses, bulk requirements, and required landscaping appropriate to the type of development, neighborhood, and community?
  - e. Are the proposed access points, traffic circulation, parking areas, and pedestrian areas designed to promote safety, convenience, and ease of traffic flow and pedestrian movement both on and off the site? For Fire Department access requirements, contact the Colorado Springs Fire Department.
  - f. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools, and/or other public facilities? Does the phasing plan provide for timely construction of public facilities needed to adequately serve the proposed development in a safe and convenient manner?
  - g. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods?
  - h. Does the concept plan show how any potentially detrimental use to use relationships will be mitigated? Does the development provide a gradual transition between uses of differing intensities?
  - i. Is the proposed concept plan in conformance with all applicable requirements of this Zoning Code, the Subdivision Code and with all relevant elements of the Comprehensive Plan?
  - j. Does the phasing plan call for completion of perimeter buffers early in the development of the project?
5. Phasing Plan: It is envisioned that development projects utilizing the PCR Zone will be developed incrementally over a number of years. The phasing plan shall describe in written and graphic form how the project is to be incrementally developed. The plan shall address the phasing of roads, utilities, drainage improvements, building development, buffer treatments, parking, and interim uses.

The phasing plan will relate the development phases to infrastructure requirements for each phase. It shall be a working document used to identify the timing and responsibility for construction of necessary infrastructure and aid in capital improvements budgeting. Annual progress reports shall be submitted to the Community Development Department and reported to the City Council. Amendments to an approved phasing plan shall require a public hearing before the Planning Commission and approval by the City Council.

6. Concept Plan Amendments: Amendments to PCR concept plans and/or PCR development plans shall be processed in accord with the provisions of subsection [7.5.503C](#) of this chapter.
7. Development Plan: A final development plan in conformance with the approved concept plan and phasing plan shall be submitted in accord with article 5, part 5 of this chapter before any building permits may be issued. It would be advisable to contact both the Regional Building Department and the Colorado Springs Fire Department for Building and Fire Code requirements.
8. Subdivision: Subdivision of the PCR District shall be in accord with the approved concept plan and phasing plan and shall comply with all applicable requirements of the Subdivision Code. (1968 Code §§14-29, 14-42.2, 14-42.8; Ord. 80-131; Ord. 80-360; Ord. 85-43; Ord. 86-39; Ord. 86-177; Ord. 88-153; Ord. 89-10; Ord. 90-35; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-70; Ord. 09-80; Ord. 12-76; Ord. 18-23)

### **7.3.403: PERMITTED, CONDITIONAL AND ACCESSORY USES:**

Uses allowed in the special purpose zone districts as principal permitted, principal permitted which require approval of a development plan, conditional, or accessory are listed in a table in section [7.3.203](#) of this article. The use and development of an individual site are subject to the standards of its underlying zone, the applicable landscaping, parking, sign and general site development standards and the applicable requirements and procedures of this Zoning Code. Uses which are regulated by additional standards are listed in a table in section [7.3.204](#) of this article. Any similar use not listed in the table may be allowed as a principal, conditional, or accessory use in any district where similar uses are allowed in conformance with article 2, part 1 of this chapter. (1968 Code §§14-29, 14-42.2, 14-42.3, 14-42.8; Ord. 80-131; Ord. 80-360; Ord. 85-43; Ord. 85-111; Ord. 86-119; Ord. 88-153; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.3.404: DEVELOPMENT STANDARDS:**

The minimum district size for certain of the special purpose zone districts is listed in a table in section [7.3.204](#) of this article; however, most development standards such as lot size, setbacks, maximum building height are determined at the time of zoning or with the development plan review. Other site development standards relating to items such as landscaping, parking, signs, fences, lighting, and preservation areas and exceptions relating to building height, lot area and width, and setback requirements apply to development in these zone districts. (Ord. 94-107; Ord. 01-42)

### **7.3.405: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:**

Specific standards designed to mitigate adverse impacts apply to particular uses allowed in the special purpose zone districts. These standards are in addition to the development standards and the general site development standards of this Zoning Code. The development standards for residential uses allowed in the special purpose zone districts shall be in accord with the R-5 Zone in section [7.3.105](#) and subsection [7.3.104A](#) of this article. (Ord. 01-42; Ord. 12-76)

## **PART 5 OVERLAY DISTRICTS**

### **[7.3.501: PURPOSE:](#)**

**7.3.502: DFOZ - DESIGN FLEXIBILITY OVERLAY:**

**7.3.503: HR - HIGH RISE OVERLAY:**

**7.3.504: HS - HILLSIDE AREA OVERLAY:**

**7.3.505: HP - HISTORIC PRESERVATION OVERLAY:**

**7.3.506: AO - AIRPORT OVERLAY DISTRICT:**

**7.3.507: P - PLANNED PROVISIONAL OVERLAY/CR - CONDITIONS OF RECORD:**

**7.3.508: SS - STREAMSIDE OVERLAY ZONE:**

**7.3.509: NNA - NORTH NEVADA AVENUE OVERLAY:**

**7.3.501: PURPOSE:**  

The purposes of this part are to provide a method for applying additional standards and conditions to base zone districts when necessary to ensure compatibility with adjacent land uses, increase design flexibility, protect surrounding areas from negative impacts of new development proposals, preserve outstanding elements of the City's heritage, prevent destruction of the natural and topographic character of hillside areas, prevent loss of life and minimize damage to properties located in or near areas of flood hazard areas, allow development of high rise areas, and promote the public health, safety, and general welfare.

The overlay districts are:

DFOZ	Design Flexibility Overlay
HR	High Rise Overlay
HS	Hillside Area Overlay
HP	Historic Preservation Overlay
AO	Airport Overlay
P	Planned Provisional Overlay
SS	Streamside Overlay Zone
NNA	North Nevada Avenue Overlay

(Ord. 94-107; Ord. 01-42; Ord. 02-166; Ord. 06-89; Ord. 09-70; Ord. 18-11)

**7.3.502: DFOZ - DESIGN FLEXIBILITY OVERLAY:**  

A. Purpose, Description, And Application: The purpose of the Design Flexibility Overlay or DFOZ is to provide for maximum design flexibility while ensuring that the overall character of the development is consistent with the base zone and harmonious with the surrounding area. The DFOZ may be used to increase design flexibility by providing for greater variations in lot sizes, reduced setbacks, narrower lot widths, and increased lot coverages. It is the intent of DFOZ to assist in the implementation of the Comprehensive Plan housing and environmental goals by encouraging a diversity of housing styles and lot designs to provide a sufficient supply and

choice of alternatives as well as to encourage infill developments.

The DFOZ is also intended to provide greater flexibility in the siting of houses on their respective lots, thereby allowing the environmental impact to be minimized and significant natural features to be preserved and enhanced. The principal permitted and conditional uses shall be the same as for the base zone.

The DFOZ shall only be used in conjunction with R Estate, R-1 9000, or R-1 6000 zoned properties which are undeveloped and under a single or common ownership. The minimum size of the base zone district shall be as follows:

1. R Estate: Ten (10) acres.
2. R-1 9000: Five (5) acres.
3. R-1 6000: Three (3) acres.

The application for the establishment of a DFOZ shall include a development plan which conforms to the design standards listed in this section and the criteria listed in article 5, part 5 of this chapter. It shall also indicate the average lot size within the development. The average lot size is determined by dividing the total number of lots into the total square footage of land contained within the sum of the lots excluding rights-of-way. Amendments to an approved DFOZ concept or development plan shall address the entire area contained within the boundaries of the original plan.

B. Development Standards: In an approved DFOZ, the minimum requirements of the base zones may be varied in conformance with the development standards listed in a table in subsection [7.3.104C](#) of this article. The design standards for lots on the perimeter of a DFOZ site shall reasonably approximate the design standards for the adjacent property to help ensure compatibility between developments. In all cases, each home must continue to meet the twenty foot (20') rear yard setback requirement if zoned R-1 6000/DFOZ or the twenty five foot (25') rear yard setback requirement if zoned R Estate/DFOZ or R-1 9000/DFOZ. The landscape tract may be used to meet the additional setback requirement imposed due to the adjacency to a collector or arterial street, but shall not relieve the home from compliance with the standard rear yard setback requirements. All other nonconflicting minimum standards which are specified in the base zones shall apply.

C. Site Plans: Prior to the issuance of a building permit for any lot contained within a DFOZ, a site plan shall be approved by the Community Development Department. A site plan shall only be approved if it is in conformance with the approved development plan. The site plan shall contain the information listed on an application provided by the Community Development Department. (Ord. 87-141; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-80; Ord. 12-76)

### **7.3.503: HR - HIGH RISE OVERLAY:**

A. Purpose, Description, And Application: The purpose of the High Rise Overlay or HR is to allow the construction of high rise buildings in accord with special height, floor area, and bulk limitations described in this section.

The HR Overlay may only be used in conjunction with R-5, SU, OC, PBC, C-5, C-6, PIP-1, PIP-2, M-1, M-2, PF, PUD, MU-CC, and MU-R/EC Zone Districts. All other minimum standards and

requirements of the base zones shall apply.

The application to establish an HR Overlay shall include a concept plan which conforms to standards listed in this section and the criteria listed in article 5, part 5 of this chapter.

B. Development Plan: Prior to the issuance of a building permit for a high rise structure within the HR Overlay, an approved development plan which meets the criteria and requirements of article 5, part 5 of this chapter is required. Building and Fire Codes set a number of special requirements for high rise building construction. Contact the Regional Building Department and the Colorado Springs Fire Department to determine these requirements.

C. Development Standards: In an approved HR Overlay, the maximum height standards of the base zones may be varied in conformance with the following development standards for height, floor area, and bulk. In the R-5 Zone, high rise buildings shall be limited to the principal permitted uses of that zone.

1. Maximum Height: The maximum height of buildings is determined by conformance with the height limitation standards listed in this section.

2. Floor Area Ratio: The amount of floor area which may be constructed on a lot in an HR Overlay is limited. The maximum square footage of floor area within a high rise building on a lot in a specific zone is determined by multiplying the area of the lot by the following factor designated for the base zone:

<b><u>Zone</u></b>	<b><u>Factor</u></b>
R-5	3
SU	2
OC	3
PBC	4
C-5	5
C-6	10
PIP-1	2
PIP-2	2
M-1	3
M-2	4
PF	2

PUD	3
MU-CC	4 <sup>1</sup>
MU-R/EC	10 <sup>1</sup>

Note:

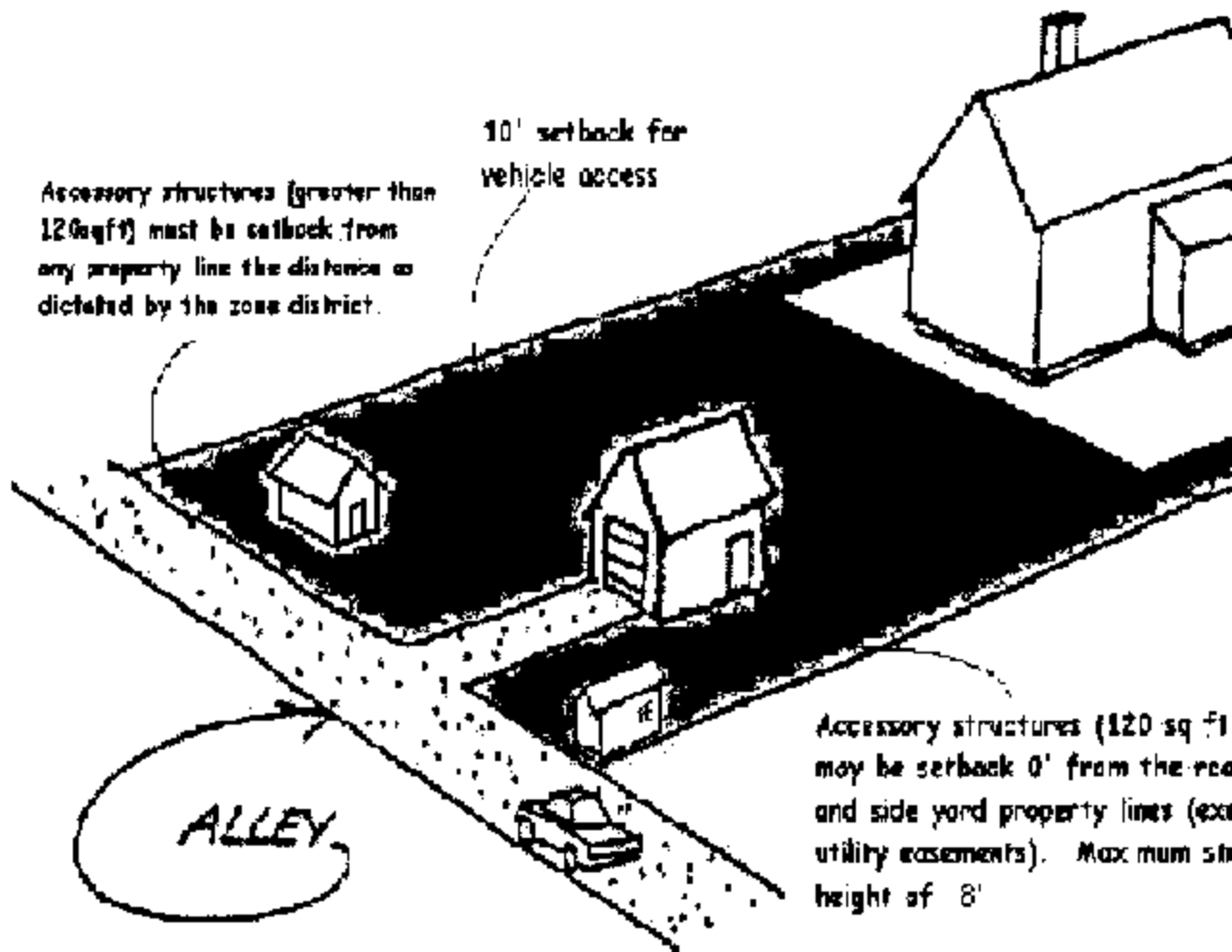
1. For purposes of this provision, in the MU-CC and MU-R/EC Zone Districts, the area of the subject lot shall be measured as the total (gross) land area measured from the lot lines or an immediately adjacent internal street centerline, whichever resulting land area is larger.

Example: In the R-5 zone, a lot area of fifteen thousand (15,000) square feet would be multiplied by the factor three (3) for a total maximum floor area of forty five thousand (45,000) square feet if other requirements can be met.

An indoor parking area for vehicles on a lot shall be considered additional lot area for the purposes of determining the required lot area per dwelling unit. The square footage of the parking area shall also be excluded from the gross floor area determined above.

3. Height Limitations: In the HR overlay, no part of any structure except church spires, church towers, flagpoles, antennas, chimneys, flues, vents, cooling towers, elevator and mechanical penthouses, accessory water tanks, or any other structures not used as floor space or human occupancy, which are an integral part and architecturally compatible with the building, shall project up through height limits which are defined by diagonal planes as listed below:
- a. In the PUD, R-5, OC, PIP-1, PIP-2, M-1, SU, and PF zones, the maximum pitch of the diagonal plane may be two feet (2') vertical to one foot (1') horizontal from lines twenty feet (20') above lot lines.
  - b. In the PBC and C-5 zones, the maximum pitch of the diagonal plane may be three feet (3') vertical to one foot (1') horizontal from lines twenty feet (20') above lot lines.
  - c. In the C-6, MU-CC and MU-R/EC zones, the maximum pitch of the diagonal plane may be 3.75 feet vertical to one foot (1') horizontal from lines twenty feet (20') above lot lines.
  - d. In the M-2 zone, the maximum pitch of the diagonal plane may be one foot (1') to one foot (1') from lines twenty feet (20') above lot lines.





(1968 Code §14-42.5; Ord. 80-131; Ord. 85-43; Ord. 88-153; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-157; Ord. 12-76)

### 7.3.504: HS - HILLSIDE AREA OVERLAY:

#### A. Description, Purpose And Objectives:

1. Description: Certain areas of the City are characterized by significant natural features that include ridgelines, bluffs, rock outcroppings, vegetation, natural drainageways, wildlife habitat, geologic conditions and slopes that contribute to the attractiveness of the community.
2. Purpose: The purpose of the hillside area overlay or HS is to specify conditions for any type of development to ensure that these areas retain their unique characteristics, to safeguard the natural heritage of the City, and to protect the public health, welfare and safety. It is the intent of these regulations to ensure that development within this overlay zone is compatible with, and complements

the natural environment as well as to minimize physical damage to public and private property. It is furthermore the purpose of this section to allow a degree of development flexibility to protect the hillside environment. Many of these physical features if disturbed for the purpose of development can cause physical damage to both public and private properties. Development in areas designated as hillside area overlay requires special care on the part of both the public and private sectors. Review of development proposals for property within the overlay should recognize the various City Code requirements and the need to balance their application with the physical attributes of the property.

3. Objectives: The HS overlay may be used with any zone district in the City when needed to meet the following objectives:
  - a. To conserve the unique natural features and aesthetic qualities of the hillside areas;
  - b. To provide safe and convenient access to hillside areas;
  - c. To minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs;
  - d. To assure type, distribution and densities of development which are compatible with the natural systems, the terrain, and the geologic character of hillside areas;
  - e. To assure that the taxpayers of Colorado Springs are not burdened by extraordinary costs for services attributable solely to the development of hillside areas;
  - f. To encourage innovative design solutions which meet the purpose of the HS overlay zone district; and
  - g. To preserve wildlife habitat and wetland areas which provide wildlife migration corridors.

The characteristics of hillside areas mean that special care and consideration are necessary in the design of these sites. The PUD zone district allows for optimal flexibility in lot design, lot size and building setbacks to conform most appropriately with the purpose of the hillside area overlay. The PUD zone district is preferred in conjunction with any proposed development in the HS overlay.

The use of the design flexibility overlay zone, because of its more rigid standards and lot averaging provisions, is discouraged within areas designated with the HS overlay or when requesting the HS overlay zone district.

In order to expedite the formal review of a development proposal in the HS overlay zone, applicants are strongly encouraged and requested to meet the spirit and intent of the hillside design manual and to contact the Community Development Department and request a preliminary review. The purpose of this preliminary review is to identify and resolve issues prior to the formal submittal. The issues associated with hillside development are complex and preliminary review is likely to reduce the formal review time.

#### B. Applicability:

1. Requirements, Review Criteria: The predominant development type in hillside areas is single-family detached housing. Development plan submittal requirements, development plan review criteria and site plans/lot grading plan evaluation criteria in this section are primarily intended to address issues

associated with that development type. For multi-family residential and nonresidential development proposals, the above referenced requirements and review criteria shall be addressed, recognizing that these requirements will apply on a sitewide rather than a lot by lot basis. All other requirements and criteria as set forth in this section shall be applied to all development proposals.

2. Approvals Required: No building or structure may be erected, reconstructed or structurally altered on land which is designated on the zoning maps of the City as being in a hillside area overlay, nor shall such land be subdivided, graded or otherwise disturbed for development, subdivision, or any other purpose unless such construction, subdivision, disturbance, or development is undertaken in accord with the requirements set forth in this section and this Code.
3. Exemption: It is recognized by the City that not all land within the hillside area overlay has the characteristics of the hillside area overlay. The nature of the exemption request determines the process the property owner must follow.
  - a. If a property owner is requesting an exemption from all of the requirements of the hillside area overlay it will be necessary to rezone the property. The process for a change of zone is described in article 5, part 6 of this chapter.
  - b. If a property owner is requesting an exemption from some of the requirements of the hillside area overlay the exemption process is keyed to the requested action.
    - (1) Building Permit: Upon written request from the landowner or authorized representative, the Manager, upon consultation with City Engineering, the Fire Department, Traffic Engineering and Utilities, may exempt property from part of the requirements of this section. The exemption may be granted if the requested property is not characteristic of the hillside area overlay so described in this section. The landowner or the authorized representative shall submit in writing a letter stating the reason for any requested exemption and list all exemptions being sought. This letter must be accompanied by a legal description of the property. Within fifteen (15) working days of receiving the exemption request, the Manager shall respond in writing. The request will be evaluated based upon its conformity with the purpose and objectives of the hillside area overlay.
    - (2) Development Plan Or Subdivision Plat: Upon written request from the landowner or authorized representative, the Manager, upon consultation with City Engineering, the Fire Department, Traffic Engineering and Utilities, may exempt property from part of the requirements of this section. The exemption may be granted if the requested property is not characteristic of the hillside area overlay so described in this section. The landowner or the authorized representative shall submit in writing a letter stating the reason for any requested exemption and list all exemptions being sought. This letter must be accompanied by a legal description of the property. Within fifteen (15) working days of receiving the exemption request, the Manager shall respond in writing. The request will be evaluated based upon its conformity with the purpose and objectives of the hillside area overlay.

#### C. Land Suitability Analysis:

1. Purpose: The land suitability analysis provides the basic information about a site's physical characteristics and features needed to assess the impact of proposed development both on and off the site. The report shall consist of both a written and graphic analysis of the physical/environmental factors which affect the site.

As not all sites will contain all of the elements listed, or because some sites may have unique considerations, the Manager may waive certain elements of the land suitability analysis or require

additional analysis. The landowner or the authorized representative shall submit in writing a letter stating the reason for any requested waiver and list all exceptions being sought.

2. Required: A land suitability analysis shall be required in conjunction with the City's review of the following:
  - a. New master plan;
  - b. Major amendment to a master plan; and
  - c. Hillside development plan.
3. Exception: A land suitability analysis will not be required for hillside development plans which consists of only one single-family home.
4. Components Of The Land Suitability Analysis:
  - a. Slope Analysis: Identification of slope ranges for parcels in order to assess the potential number of sites for intensity of development and difficulty in provision of infrastructure and emergency services. Slope analysis shall be provided in the following increments and use a contour interval of two feet (2'):
    - (1) Zero to eight percent (8%) generally suitable for development;
    - (2) Eight (8) to twelve percent (12%) increased potential for engineering difficulties; moderate potential for activating site hazards;
    - (3) Twelve (12) to fifteen percent (15%) increased potential for engineering difficulties; moderately high potential for activating site hazards;
    - (4) Fifteen (15) to twenty five percent (25%) high potential for activating hazard potential; and
    - (5) Twenty five percent plus (25%+) very high potential for development difficulty and severe hazard potential.
  - b. Vegetation And Wildlife: Grasslands, scrub oak and similar shrubs, and coniferous tree cover are major components of hillside areas. Analysis shall show the physical location of vegetation and the following items:
    - (1) Ecosystems defined by the Colorado Forest Service;
    - (2) Assessment of wildfire hazard potential; and
    - (3) Wildlife habitat and migration corridors.
  - c. Geology, Soils And Natural Features:
    - (1) Geologic analysis, including identification of significant natural features and geologic hazards and constraints which require unusual mitigation during design and construction of structures and/or

infrastructure (i.e., downslope creep, debris flow, flood hazards, rockfall hazards and underground mines);

(2) Soils analysis, utilizing information from the Soil Conservation Service, U.S. Forest Service; and

(3) Natural and manmade features, including identification of significant site features such as streambeds and other drainage, ridgelines and existing land uses. The Colorado Springs urban growth area inventory of significant natural features shall be consulted in identifying these features.

d. Topographic Map: Topographic map using a two foot (2') contour interval.

e. Analysis Package:

(1) Composite Map: The various components of the suitability analysis shall be overlaid and as a result a composite of opportunities and constraints map shall be prepared to support any proposed land use.

(2) Written Text: A summary of the existing site features and constraints and how the development of the site will occur in a manner which considers both the opportunities and constraints. The analysis must address mitigation for the site's physical constraints and hazards.

D. Hillside Development Submittal Package:

1. When Required: Before the submittal of a subdivision plat, a hillside development submittal package that conforms to the criteria of section [7.5.502](#) of this chapter and this section must be approved. The subdivision plat may be submitted concurrently with the hillside development submittal package. If the property has been granted an exemption per this section, then the development submittal package may be modified accordingly.

2. Submittal Requirements:

a. Master Facilities Plan:

(1) Objective: The nature of construction in hillside areas requires that street design, drainage facilities and utilities be reviewed in conjunction with the development plan. This additional level of review will help assure that the components of street construction in the hillside area overlay will reduce the amount of land disturbance and protect the public safety.

(2) Components:

(A) Preliminary design of all streets to include:

(i) Grades: Existing and proposed centerline grades and separate curb line grades if significantly different;

(ii) Curve Data: Vertical curve data, K values and design speed;

(iii) Intersection Stationing: Only minor street grade/elevation changes will be allowed between preliminary and final approved street plans. Allowed changes will be those which do not affect health, safety or welfare or cause significant terrain disturbance.

- (B) Drainage facilities, including stormwater quality control facilities, and utilities to include telecommunications;
- (C) Plan view of all structures, such as retaining walls;
- (D) Typical street section for all proposed streets to include utility and drainage facilities;
- (E) All off street facilities/improvements including necessary easements;
- (F) Preliminary drainage report, per drainage criteria manual;
- (G) Note for all master facility plans and construction plans:
  - (i) Construction of gas and electric facilities in twenty four foot (24') and twenty foot (20') street widths will necessitate installation prior to curb construction. Contractors will be required to stake curbs and finish grade to within six inches (6") of subgrade prior to gas and electric installation. Gas will not install steel lines of any size or plastic lines larger than four inches (4") in these twenty four foot (24') and twenty foot (20') streets.
  - (ii) The Fire Department and Water Services Division reserve their option to set requirements for access width, turning mechanisms, intermediate and terminal turnarounds and special features needed to achieve their operational requirements.
  - (iii) The order of construction shall be as follows:
    - (a) Wastewater;
    - (b) Storm sewer, if required;
    - (c) Water;
    - (d) Electric;
    - (e) Telecommunications; and
    - (f) Gas.
- b. Land Suitability Analysis: A land suitability analysis shall be submitted with the development submittal package. The map component of the land suitability analysis shall be at the same scale as the development plan. Refer to subsection C of this section for specific components of a land suitability analysis.
- c. Grading Plan, Erosion And Stormwater Quality Control Plan, Reclamation And Maintenance:
  - (1) Objective: The primary objectives of the grading, erosion, stormwater quality control and reclamation plans are to minimize terrain disturbance, provide erosion and stormwater quality control measures and to restore and stabilize those areas which are disturbed.
  - (2) When Required: Plans for grading, erosion and stormwater quality control shall be submitted by the applicant with the development plan, development plan amendment, plat or replat, whichever is applicable, in any designated hillside area. When deemed appropriate, the Manager may allow a hillside grading plan to be submitted, reviewed and approved in conjunction with the review of a

concept plan for a hillside zoned project. Grading approved in conjunction with concept plan applications is limited to the grading necessary to install streets and/or utilities. No land so designated shall be subdivided, graded, or otherwise disturbed for purposes of development, or any other purpose until the plans for grading, erosion and stormwater quality control are approved by the Manager and the City Engineer.

- (3) Requirements: The grading plan shall meet all the requirements of the Subdivision Code. In addition, the grading plan shall show all areas to be disturbed by excavation and fill and shall show proposed final contours for these areas. The contour interval shall be two feet (2') and the horizontal scale one inch equals fifty feet (1" = 50') unless otherwise approved by the City Engineer. Street grades and elevations shown shall be in conformance with the preliminary street profiles.

The erosion and stormwater quality control plan shall state in detail the measures to control erosion and the quality of stormwater runoff due to any land disturbance. The erosion and stormwater quality control plan shall meet all the requirements of section [7.7.1504](#) of this chapter and the "Drainage Criteria Manual, Volume II: Stormwater Quality Policies, Procedures And Best Management Practices". No cleared, graded or otherwise disturbed land may be left without temporary protective stabilizing cover longer than sixty (60) days or without permanent cover longer than one year from the date of disturbance as described in the erosion and stormwater quality control plan. All necessary erosion control measures shall remain in place and be maintained until effective stabilization is achieved. The reclamation plan or program shall state in detail how each type of restoration situation will be dealt with, recognizing that different combinations of slope and material may require varied stabilization methods.

All grading plans prepared and submitted under this subsection shall include plans for limiting ecological damage through restrictions on the use of construction equipment and placement of supply and equipment storage areas and measures for drainage and erosion control to be employed during construction. Whenever possible and wherever appropriate, erosion control and restoration shall incorporate the use of live native plant materials. Criteria for treatment shall include visual compatibility with the surrounding landscape, sustained survivability under arid conditions and effectiveness in prevention of soil erosion and slope failure.

- (4) Obligation To Maintain: All facilities, vegetation and other items required by the approved grading, erosion and stormwater quality control and reclamation plans shall be properly maintained by the owners of the property. Such maintenance shall include, but not be limited to, keeping all erosion control facilities in good order and functional, repairing any erosion damage that occurs, keeping all vegetation healthy and in growing condition and replacing any dead vegetation as soon as practical. This obligation to maintain shall not apply to individual lots except as the individual lots may be subject to maintenance obligations incurred under the approved grading, erosion and stormwater quality control and reclamation plans and except for obligations incurred on an approved hillside site plan/lot grading plan.
- (5) Revisions: Any proposed revisions to approved grading plans and erosion and stormwater quality control plans shall be submitted to the Community Development Department for review and shall be acted upon by the Manager and the City Engineer within ten (10) working days of receipt. These revisions shall be in compliance with the development plan.
- (6) Assurances: A letter of credit or surety bond shall be required to assure restoration of areas disturbed during grading of the overall development to install the roads, utilities, drainage facilities/detention ponds/stormwater quality control facilities, etc. Restoration shall be in accord with the approved erosion and stormwater quality control and reclamation plans. Submittal of this letter of credit or bond is not required for final plat approval but is required prior to any land and/or vegetation disturbance or prior to issuance of any building permit, whichever occurs first.

- d. Hillside Development Plan: In addition to the normal development plan submittal requirements, hillside development plans shall also include the following:
- (1) Building Lots: The location of building lots and the building envelopes within these lots are essential to the quality of hillside development. The overall layout of the building lots and the building envelopes should be drawn with consideration of the following factors:
    - (A) Lots and building envelopes should be located to preserve significant vegetation and features in preservation easements or common open space;
    - (B) Lots and building envelopes should be located to allow significant variation in front and side yard setbacks to avoid a repetitious appearance along the street frontage;
    - (C) Slopes greater than twenty five percent (25%) shall be avoided;
  - (2) Street Type And Placement: The development plan shall demonstrate that each proposed building lot meets the following standards:
    - (A) Adequate Access: Adequate vehicular access to each individual building lot. Adequate access will be evaluated based upon:
      - (i) Driveways should follow the natural contour of the land. However, cut and/or fill for driveway construction will be considered on a case by case basis. Cut and fill slopes should be limited to four feet (4') in height and no more than two (2) 4-foot tiers in total. There should be a minimum horizontal separation of four feet (4') between each tier and the face of the retaining wall will be screened by vegetation. It is recognized that in some circumstances one retaining wall will allow the amount of land disturbance to vegetation removal to be minimized. In cases where it can be demonstrated that one retaining wall will be beneficial, the maximum height shall be six feet (6');
      - (ii) A maximum slope of twenty percent (20%) for individual driveways and fifteen percent (15%) for a shared driveway. When the driveway serves a required Fire Department access the width shall be a minimum of twelve feet (12') and not greater than twelve percent (12%) grade;
      - (iii) The amount of significant vegetation proposed to be removed;
      - (iv) The driveway locations should be arranged in such a manner to facilitate emergency service response. On streets with less than twenty eight foot (28') mat widths, driveways should be offset to facilitate emergency response;
      - (v) Shared driveways, where appropriate, are encouraged as a method of reducing grading, paving and site disturbance.
    - (B) Satisfactory Location Of Individual Utility Service Lines: The installation of individual utility service lines can cause removal of large quantities of natural vegetation. Service lines should be located to minimize disturbance of significant vegetation and natural features. The retention of the significant vegetation will be the main factor in the evaluation of the utility service line location. A lot may not be approved if a satisfactory utility service line location cannot be agreed upon.
    - (C) Retention Of The Significant Vegetation On An Individual Building Lot: On lots with significant vegetation the placement of the home should utilize this vegetation to soften structural mass and maintain vegetation. Special emphasis should be placed upon preserving significant natural vegetation within the front yard and streetscape areas.



(D) Setbacks: Front and side yard setbacks should be sufficiently varied throughout the development to avoid a repetitious appearance along the street frontage.

(E) Grading: Grading for the construction of the streets and utilities should be minimal.

(F) Slopes: Slopes greater than twenty five percent (25%) shall not be included in the building envelope.

3. Hillside Development Plan Review Criteria: In addition to the development plan review criteria listed in article 5, part 5 of this chapter, criteria for review of a development plan in a designated hillside area shall include the following:

a. Does the plan meet the spirit and intent of the hillside design manual?

b. How will the streetscape retain a hillside character after the street is constructed? Is terrain disturbance minimized?

The streetscape should reflect the natural setting of the development. The natural elements such as vegetation and rock features should be a major part of the streetscape. Removal of significant vegetation will be discouraged for construction of the streets, installation of utilities and construction of houses. It is, however, recognized that some amount of vegetation will be removed for development in hillside areas.

c. Have visual impacts upon off site areas been reduced or reasonably mitigated?

Significant ridgelines and other prominent sites within the City should be given special consideration when a development plan is being prepared. Additional mitigation measures are necessary in these highly visible areas.

Mitigation measures that may be demonstrated on the development plan may include, but are not limited to:

(1) Alternate siting of structures to include increased setbacks from ridgelines;

(2) Use of significant vegetation to soften structural mass when building sites are located in highly visible areas;

(3) Designation of special height restrictions;

(4) Use of native vegetative cover and retaining walls faced with stone or earth colored materials as stabilization measures for cuts and fills; and

(5) Alternate street placement to reduce visibility of structures.

d. Have the significant natural features and the significant vegetation been placed in preservation area easements?

Because of the terrain in hillside areas it is recognized that utilities and some drainage improvements may have to be located within an easement. The review will consider the necessity of locating these facilities within the preservation area easement.

- e. Have geologic, soil and other natural hazards been identified and evidence of mitigation techniques been provided?

Various natural hazards are encountered when developing in the hillside terrain. It is important to identify and begin the process of addressing the various mitigation techniques. A geologic hazards study shall be provided as required by article 4, part 5, "Geological Hazard Study And Mitigation", of this chapter.

E. Wildfire Risk Mitigation: Wildfire risk reduction techniques shall include monitored smoke alarm systems, sprinkler systems, fire resistant roofing materials which are class A (excluding solid wood roofing products) for all residential occupancies, a minimum class B on all other occupancies, and fuels management measures. Within the hillside overlay, fuels management measures shall be utilized within the safety zone of applicable new building construction. "Fuels management" is defined as the modification of the natural vegetation within the safety zone. Fuels management requirements, as set forth below, are intended to protect structures from wildfire as well as to reduce fire from spreading to the wildland. The "safety zone" is defined as the area within thirty feet (30') of the main structure or significant accessory structures, not to extend beyond the property line. As it is the City's desire to provide an environment safe from wildfire while maintaining the aesthetic qualities of the native hillside, the following wildfire risk reduction standards shall be required:

1. All development plans and subdivision plats within the hillside overlay zone approved on or after April 1, 1993, and hillside site plan/lot grading plans shall contain the following disclosure statements:

*Residing in or near wildland interface or intermix areas involves increased fire risks that may not apply in urban or more urbanized types of developed communities.*

2. All development plans and subdivision plats within the hillside overlay zone approved on or after April 1, 1993, and hillside site plan/lot grading plans shall contain the following statement:

*All lots within this development, are subject to fuels management requirements. It is the responsibility of the builder to implement the fuels management procedures as defined in [Chapter 8](#) of the City Code for each lot. Approval inspection must be obtained from the Community Development Department prior to Final inspection by the Building Department and/or allowing occupancy of the residence. The initial fuels management inspection must be requested from the Community Development Department prior to framing inspection with subsequent approval obtained prior to building final.*

3. All lots within the hillside overlay zone illustrated on development plans approved on or after April 1, 1993, shall be subject to the following fuels management requirements:

- a. Brush patches or clusters may be left in the safety zone, but shall be separated by clear areas of ten feet (10') or more of noncombustible materials or grass mowed to not more than four inches (4") in height.
- b. No brush shall be allowed within ten feet (10') of the main structure. Exception: When approved by the City's Fire Marshal, small brush patches, not exceeding one hundred (100) square feet in size and no more than fifteen (15) linear feet in any direction, may be allowed to encroach into this zone. This will be allowed upon the condition that the structure is protected with fire resistant siding and

small brush patches are not located within ten feet (10') of combustible decks, overhangs, or building openings.

- c. Large trees shall not have overlapping limbs and shall be pruned of dead limbs to a height of ten feet (10') above the ground. Tree clusters may be allowed if sufficient clear area is provided.
  - d. Tree branches shall not exceed over or under the roof eaves and shall not be within fifteen feet (15') of a wood burning appliance chimney.
4. Homes upon lots within the hillside overlay zone illustrated on development plans approved on or after April 1, 1993, shall be required to install a monitored fire alarm system or a fire sprinkler system when the lot lies beyond one thousand feet (1,000') along a cul-de-sac or lies beyond roadways with grades in excess of ten percent (10%) if roadways are the primary vehicular points of access to the home. Additionally, development plans which contain streets or lots which meet this criteria shall contain the following statement:

*A monitored fire alarm system or a fire sprinkler system is required for residences built upon the following lot(s):. The Colorado Springs Fire Department shall review all building plans, determine system requirements, and issue appropriate permits. A visual piping inspection must be secured through the Fire Department prior to requesting the framing inspection. Final inspection and approval of the system must be secured through the Fire Department prior to final inspection by the Building Department and/or occupancy of the residence.*

5. After January 1, 2003, a class A roof covering (excluding solid wood roofing products) shall be installed on all residential occupancies and a minimum class B roof covering shall be installed on all remaining occupancies (not to replace class A where already required by the Building Code) at the time a permitted roofing or reroofing application is done within the limits of the City of Colorado Springs, Colorado.

F. Hillside Building Height: Within the hillside overlay, the height of any building elevation shall be measured vertically from the building grade to the corresponding highest point of the roof to include parapets and all ornamental features. Permitted heights are as follows:

1. For single-family uses the maximum height is thirty five feet (35') for a sloping roof and thirty feet (30') for a flat roof. Height shall be determined at the time of zoning and development plan review and may be reduced based upon consideration of site factors including, but not limited to, visual analysis, topography, and proposed height relative to existing vegetation.
2. For multi-family uses, height shall be determined at the time of zoning and development plan review. Height will be based upon consideration of site factors including, but not limited to, visual analysis, topography, and proposed height relative to existing vegetation.
3. For nonresidential uses, maximum height is as permitted in the underlying zone, subject to final determination at the time of zoning and development plan review. Height may be reduced based upon consideration of site factors including, but not limited to, visual analysis, topography, and proposed height relative to existing vegetation.
4. Existing single-family zoned lots with approved, unexpired development plans or subdivision plats approved prior to adoption hereof on June 6, 1996, shall have a maximum permitted height of thirty five feet (35') measured from the building grade to the corresponding highest point of the roof. In the event an approved development plan restricts building height to less than thirty feet (30'), maximum

height required by the development plan shall apply.

The major corners of the proposed structure are used to establish the control points with the building grade and from which the measurements are to be taken. Major corners are the points where the structure's walls change directions for distances of eight feet (8') or more, including attached garages and additions, but not including decks, patios, bay windows, chimneys or similar projections. This method creates a surface above the building grade of the major corners of the structure's or building's footprint through which no portion of the structure may protrude. This method mirrors the site's building grade topography and defines a structure's maximum permitted hillside height.

G. Issuance Of Building Permits: No building permits shall be issued in any designated hillside area nor any grading or disturbance activity occur until such time as:

1. The development submittal package is approved; and
2. The final plat is recorded; and
3. Appropriate financial securities have been posted with the City Engineer to assure implementation of the approved grading, erosion and stormwater quality control and reclamation plans; and
4. A hillside site plan/lot grading plan which meets the submittal requirements and the criteria set forth in the hillside design manual for the individual lot is approved by the Community Development Department.

H. Review Of Hillside Site Plans/Lot Grading Plans: No construction activity, including grading or removal of vegetation, shall occur on lots or parcels subject to the hillside overlay zone until a hillside site plan/lot grading plan has been approved by the Community Development Department.

1. Content Requirements: The content requirements for a hillside site plan/lot grading plan shall be as set forth in the hillside design manual.
2. Evaluation: Hillside site plan/lot grading plans will be evaluated for consistency with the spirit and intent of the hillside design manual, the approved development plan and in accord with the following site design review criteria:
  - a. Have the development standards of the zone or development plan (i.e., setbacks, maximum height, lot coverage, drive grades, access points, etc.) been met?
  - b. Is terrain disturbance minimized?
    - (1) Have cut and fills been minimized?
    - (2) Has the natural land form been retained?
    - (3) Have visually compatible stabilization measures been used for cut and fill slopes?
    - (4) Have natural features such as slopes and rock formations been incorporated into the site design?

c. Is natural vegetation preserved and incorporated into the project design?

- (1) Has emphasis been placed upon preserving scrub oak and pine trees within the front yard area as this has a major impact upon the appearance of the streetscape and the image and character of the neighborhood?
- (2) Has emphasis been placed upon preserving healthy and significant stands of scrub oak and pine trees?

d. Have visual impacts upon off site areas been avoided or reasonably mitigated?

- (1) Has the structure been sited so that there is a mountain or hillside backdrop?
- (2) Has the structure been sited away from the ridgeline?
- (3) Has existing vegetation been preserved to soften the structural mass of buildings located in highly visible areas?
- (4) Has supplementary native landscaping been used to soften structural mass of highly visible building sites?

Note: The hillside design manual can be consulted for further information on alternative site design techniques which can be utilized to comply with these hillside review criteria.

3. Review Time: The Community Development Department shall respond to a proposed hillside site plan/lot grading plan within three (3) working days of receipt.
4. Appeals: The decision of the Community Development Department to approve, approve with conditions or deny the hillside site plan/lot grading plan may be appealed to the Planning Commission in accord with this Zoning Code.
5. Lots Created Prior To June 6, 1996: It is recognized it may not be possible for lots platted prior to the adoption of the hillside standards enacted with ordinance 96-80 to be developed in full compliance with all of the standards and guidelines of this Code. The Manager will consider this factor when reviewing building permit requests for lots platted prior to June 6, 1996.

#### I. Illegal Land Disturbance, Grading And Vegetation Removal:

1. Compliance Required: All grading and vegetation removal, erosion and stormwater quality control, restoration and maintenance within the hillside area overlay shall be accomplished in accord with the City approved grading, erosion and stormwater quality control and reclamation plans and/or hillside site plan/lot grading plan and the provisions of this section.
2. Noncompliance With Approved Grading, Erosion And Stormwater Quality Control, And Reclamation Plans: Any overlot, street, drainage, utility grading or other land disturbance performed which is not in compliance with the approved hillside grading, erosion and stormwater quality control, and reclamation plans and the provisions of this section shall be deemed to be a violation of part 15 of the Subdivision Code of this chapter. Any violation shall be enforced in accord with the procedures set forth in part 15 of the Subdivision Code of this chapter. If the City Engineer determines there is either imminent or existing erosion damage, drainage damage, dust pollution or other hazardous

conditions for which immediate action is necessary, the City Engineer may cause corrective procedures to be undertaken at the full expense of the property owner and may take other enforcement actions deemed necessary as outlined in section [7.7.1509](#) of this chapter.

3. Noncompliance With Approved Hillside Site Plan/Lot Grading Plan: No grading or removal of vegetation shall occur on properties subject to the hillside overlay zone other than that authorized on the City approved hillside site plan/lot grading plan. Any grading or vegetation removal occurring on an individual lot or tract which does not comply with the City approved hillside site plan shall be deemed to be a violation of this Code. The Manager is authorized to pursue enforcement actions including, but not limited to, the issuance of a notice and order for illegal grading or vegetation removed in violation of the approved hillside site plan/lot grading plan.

J. Appeals: Except as provided in article 5, part 1 of this chapter, appeals of any administrative action under the provision of this section shall be made in accord with article 5, part 9 of this chapter; provided that whenever the City Engineer initiates abatement of violations under this section, and pursuant to part 15 of the Subdivision Code of this chapter, this section shall not apply. Appeals of those matters shall proceed in accord with part 15 of the Subdivision Code of this chapter and any appeal in process under this section pertaining to these matters shall terminate until the appeal has been completed. (Ord. 83-229; Ord. 85-11; Ord. 91-30; Ord. 93-48; Ord. 94-107; Ord. 96-80; Ord. 01-42; Ord. 02-130; Ord. 02-174; Ord. 03-16; Ord. 05-135; Ord. 08-44; Ord. 09-80; Ord. 10-82)

### **7.3.505: HP - HISTORIC PRESERVATION OVERLAY:**

A. Purpose And Declaration Of Policy: It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures and areas of a historical or architectural significance located within the City is a public necessity and is required in the interest of the prosperity, civic pride, and general welfare of the people.

The purpose of this section is to:

1. Designate, preserve, protect, enhance and perpetuate those structures and areas which reflect outstanding elements of the City's cultural, artistic, environmental, social, economic, political, architectural, historic or other heritage.
2. Foster civic pride in the beauty and accomplishments of the past.
3. Stabilize or improve the aesthetic and economic vitality and values of such structures and areas.
4. Protect and enhance the City's attraction to tourists and visitors.
5. Promote the use of outstanding historical or architectural structures or districts for the education, enjoyment and welfare of the people of the City.
6. Promote good urban and architectural design in new infill buildings and rehabilitation of existing buildings including the preservation of related private and public open spaces.
7. Promote and encourage continued private ownership and utilization of buildings and other structures now so owned and used, to the extent that the objectives listed above can be attained under such a policy.

8. It is the sense of the Council that the economic, cultural and aesthetic standing of this City cannot be maintained or enhanced by disregarding the historical and architectural heritage of the City and by ignoring the destruction or defacement of cultural assets.

B. Standards For Designation Of Areas For Zoning Overlay: A structure may be designated by Council for historic preservation overlay zoning if it is at least fifty (50) years old, or if not fifty (50) years old, exhibits exceptional importance, and meets one or more of the following criteria as set forth in the following two (2) categories:

1. Historical importance: The structure or area:

- a. Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the City, State or Nation;
- b. Is the site of a historic event with significant effect upon society;
- c. Is identified with a person or group of persons who had significant influence on society; or
- d. Exemplifies the cultural, political, economic, social or historic heritage of the community.

2. Architectural importance: The structure or area:

- a. Portrays the environment of a group of people in an era of history characterized by a historically important and distinctive architectural style;
- b. Embodies architecturally distinguishing characteristics;
- c. Is the work of an architect or builder whose individual work has influenced the development of the City;
- d. Contains elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or
- e. Contains buildings which, although individually lacking distinction, collectively display distinguishing characteristics.

C. Surveys And Inventories: Surveys and inventories of historic properties have been prepared by the City for downtown, Shooks Run, Old Colorado City, Mesa Springs, Knob Hill, and the west side neighborhood, and such are on file at the Community Development Department. These surveys and inventories as such are now completed or such surveys and inventories as may be completed in the future shall be a part of the City's Comprehensive Plan. Surveys which locate and describe historic structures and areas, and inventories which compile information about historic structures and areas shall be undertaken and updated as funds are budgeted and made available. Owners of surveyed properties shall be notified of the survey results by being given a copy of the survey of their property. A description of the historic preservation ordinance program, the reasons for and the obligations and restrictions and effects of the historic preservation overlay zone shall accompany the survey form.

The City survey and inventory system shall be compatible with Federal and State criteria and

consistent with Statewide comprehensive historic preservation planning.

Both the Regional Building Department and the Colorado Springs Fire Department highly value existing historic structures. Each agency is prepared to survey each building's unique life safety qualities and recommend the enhancements most suited for its individual hazards. Contact either agency to obtain a written comprehensive report.

D. Relief To Preserve Historic Resources: The purpose of this subsection is to provide flexibility in the application of development standards and parking requirements for use when strict application of regulations will result in adverse effects to designated historic resources. The City recognizes that historic resources contribute to the unique character of neighborhoods; that many resources exist as legal, nonconforming structures; and that the value of historic resources cannot be replicated once they are adversely altered, moved or demolished.

1. Application: A written request for relief shall be submitted. The request shall include a site plan and a parking lot plan which shows the location, exterior dimensions, and height of all structures and objects, the layout of parking spaces, aisles and access points, and the location and size of the existing vegetation.
2. Findings Necessary To Recommend Relief: The Historic Preservation Board must make all of the following findings in order to recommend relief:
  - a. The strict application of development standards listed in the base zone and/or parking requirements listed in article 4, part 2 of this chapter, will cause the removal, demolition or adverse alteration of an existing historic resource.
  - b. The Historic Preservation Board has determined that:
    - (1) The historic resource meets the criteria for designation of HP - historic preservation overlay as identified in subsection B of this section; and
    - (2) The historic resource is worth saving; and
    - (3) The relief is necessary to preserve the historic resource.
  - c. If the request for relief involves parking requirements, the Traffic Engineer has determined that the surrounding properties will not be adversely impacted by the reduction of the number of required off street parking spaces.
  - d. The intent of this Zoning Code is preserved.
3. Relief That May Be Recommended: In order to provide greater flexibility in satisfying development standards and/or parking requirements to save historic resources, the following relief may be recommended:
  - a. Reduction Of Required Front, Rear, Or Side Yard Setbacks:
    - (1) The base zone regulations regarding front, rear, or side yard setbacks may be waived upon demonstration that a neighborhood standard exists which is less restrictive than the requirements of the base zone.



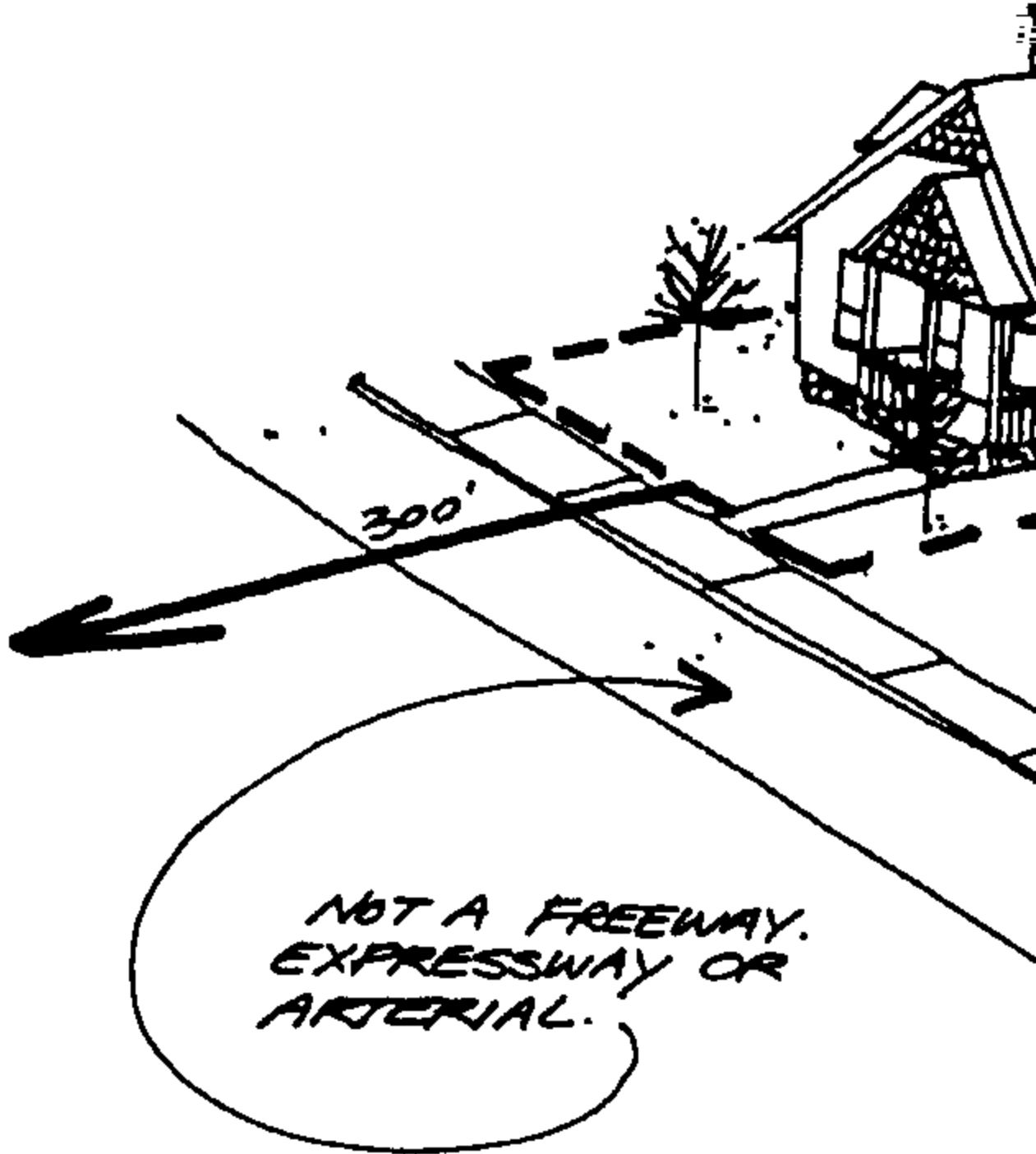
(2) A recommended waiver of base zone setback requirements shall be no less restrictive than the identified neighborhood standard.

b. Waiver/Reduction Of Parking Design Guidelines; Provision Of On Site, Off Street Parking Requirements As Listed In Article 4, Part 2 Of This Chapter:

(1) The prohibition against backing across a property line may be waived for those parking spaces accessed from an alley if the unparking vehicle is clearly visible from both alley directions.

(2) The prohibition against off site parking spaces may be waived for those parking spaces located within three hundred feet (300') of the property containing the subject historic resource, provided that the off site parking spaces are not located across an arterial street, expressway, or freeway. A guaranteed access agreement will be required as evidence of secured off site parking, and it shall be filed with the County Clerk and Recorder if such a waiver is issued.

# Off-site parking for Hist



- (3) One hundred percent (100%) of all required off street parking spaces may be compact spaces. Compact space dimensions are found in article 4, part 2 of this chapter.
- (4) The prohibition against tandem parking spaces fulfilling on site, off street parking requirements may be waived.
- (5) If the relief allowed under this section is still insufficient to preserve the subject historic resource, a reduction of up to fifty percent (50%) of the minimum number of off street parking spaces required by this Zoning Code may be recommended if determined necessary by the Board to preserve a historic resource.

c. Waiver Of Height Of Building Limitation:

- (1) The base zone regulations regarding height of building limitations may be waived upon demonstration that a neighborhood standard exists which is less restrictive than the height of building limitations of the base zone.
  - (2) A recommended waiver of base zone height of building limitation may be no less restrictive than the neighborhood standard.
4. Issuance Of Relief: Relief to preserve historic resources may be approved when accompanying an overlay zone change request.

E. Applicability: No structure may be erected, reconstructed, structurally altered or demolished on land which is designated historic preservation overlay unless the structure is in compliance with the provisions of this Zoning Code. (Ord. 88-228; Ord. 90-9; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-80)

**7.3.506: AO - AIRPORT OVERLAY DISTRICT:**   

A. Purpose: These airport hazard regulations are adopted pursuant to Colorado Revised Statutes title 41. City Council finds and determines that:

1. Certain land uses which are determined by the Federal Aviation Administration (FAA), in accord with 14 CFR part 77, to create, establish, enhance, or maintain hazards to air navigation are a public nuisance and an injury to the communities served by the airports.
2. In the interest of the public health, public safety and welfare, no creation, enhancement, establishment and/or maintenance of hazards to air navigation shall be granted unless a variance, waiver of standard(s) or other development approval is granted pursuant to City Code.
3. The free and unobstructed passage of all aircraft, regardless of its owner or operator, in, through and across all of the airspace above the communities served by airports is a defined right set forth in title 49 United States Code ("USC") sections 40102(a)(30) and 40103(a)(2), title 14 CFR, chapter I, parts 91, 101, and 103, as amended, including, but not limited to, 14 CFR part 91.119, or any similar statute or regulation which may later be enacted or amended in total or in part; and including, but not limited to, Colorado Revised Statutes sections 41-4-101, 41-4-106 and 41-4-107, as amended, or any similar regulation or statute which may later be enacted or amended in total or in part.

4. Nonconforming uses may be created which are subject to the nonconforming use rights and restrictions as established by this Code.
5. A person seeking a City variance, waiver of standard(s) or other development approval shall, upon receipt of a reasonable request, grant and record an avigation easement as a condition of City approval of a variance, waiver of standard(s), or other development approval sought as a standard condition of development.
6. By adopting this section, City Council intends to exercise the full extent of its authority under Colorado Revised Statutes title 41 to establish a method for the acquisition of airport protection privileges for public purposes as a matter of public necessity.
7. These regulations are appropriate and necessary to implement the Colorado Springs Comprehensive Plan.

B. Definitions: Unless otherwise defined, all words used in this section shall carry their customary meanings unless the context requires a different meaning.

For purposes of this section, the following words and terms are defined as follows:

**ACCIDENT POTENTIAL SUBZONE 1 (APZ-1):** The corresponding subzone indicated on the Airport Overlay District Map. This subzone applies to ground level development up to the maximum height of the base zone.

**ACCIDENT POTENTIAL SUBZONE 2 (APZ-2):** The corresponding subzone indicated as such on the Airport Overlay District Map. This subzone applies to ground level development up to the maximum height of the base zoning district.

**AIRCRAFT:** Any unassembled, partially assembled, or fully assembled collection of parts, operational or nonoperational, that make a contrivance now known or later invented, used or designed for navigation of or flight in the air or space regardless of the form of propulsion which powers the aircraft in flight.

**AIRCRAFT NAVIGATION SUBZONE (ANAV):** The subzone at and above the ground as depicted on the Airport Overlay District Map as adopted and amended by the City of Colorado Springs. The ANAV encompasses all land within the overlay.

**AIRPORT:** The commercial service facility now known as City of Colorado Springs Municipal Airport, or any future name or common reference for that facility that may be promulgated, adopted or referred to; or any and all future commercial service facility or facilities developed within the City of Colorado Springs.

**AIRPORT NOISE SUBZONE (ADNL):** The subzone indicated by lines of increasing projected annual average noise exposure (DNL) from 65 DNL to 70 DNL, 70 DNL to 75 DNL, and 75 DNL to 80 DNL. (See also the definition of DNL.)

**AIRPORT OVERLAY ZONE (AO):** An overlay zone, including associated subzones that are together superimposed on existing base zones.

**DNL:** A day-night (sound) level that recognizes the added impact of nighttime noise. It is a twenty four (24) hour average noise level based on A-weighting with ten (10) dBA added between the hours of ten o'clock (10:00) P.M. to seven o'clock (7:00) A.M. DNL is expressed visually via

contour lines in five (5) DNL increments.

**DETERMINATION:** A final written aeronautical and/or airspace study reply received from the FAA in direct response to filing notice under 14 CFR part 77.

**FAA:** The United States Department of Transportation, Federal Aviation Administration or any successor agency.

**HAZARD TO AIR NAVIGATION:** Any improvement or use of land which obstructs or otherwise has a significant adverse impact on the airspace required for the flight of aircraft, as determined by the FAA under 14 CFR part 77 and related FAA orders and regulations as may be changed or amended.

**HEIGHT:** For the purpose of determining the height of structures, objects, ground, property, and airspace, the datum shall be mean sea level elevation unless otherwise specified.

**IMPROVEMENT:** Any building, structure or other improvement, development or object, including trees, shrubbery or other vegetation.

**LANDING AREA:** The area of the airport used for landing, taking off or taxiing of aircraft.

**NONCONFORMING USE:** Any structure, tree, natural growth, or use of land existing on the effective date hereof which is inconsistent with the provisions of this section or any future amendment.

**PERSON:** An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity, and includes a trustee, receiver, assignee, administrator, executor, guardian or a similar representative of any of these.

**RUNWAY:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**RUNWAY PROTECTION ZONE (RPZ):** The corresponding subzone indicated on the Airport Overlay Map. Notice to FAA shall be provided for any proposed construction of greater height than an imaginary surface extending outward and upward at a slope of one hundred to one (100:1) (i.e., 1 foot of height for each 100 feet of distance) from the nearest point of the nearest runway through the length of the RPZ.

- C. Airport Overlay District And Subzone Map: The airport overlay district ("AO") shall be shown on an approved AO map, which may be amended from time to time. The AO zone shall be deemed an overlay on all other underlying zoning districts.
- D. Permitted Uses: The following table describes principal permitted uses and conditional uses within the AO zone. Restrictions are cumulative, with additional restrictions applicable to property within multiple subzones of this overlay. In all cases, only uses permitted in the underlying zone are permitted, but those uses may be further limited or prohibited by the application of the overlay.

Use	ADNL <sup>1</sup>	RPZ	APZ-1	APZ-2	ANAV
Commercial retail and wholesale	P		P <sup>5</sup>	P	P
Golf courses; cemetery; stables	P		C	P	P
Hotel and motels	C <sup>3</sup>				P
Mobile homes					P
Multiple-family residences; human service establishments; residential hotels; convalescent hospitals	<sup>4</sup>				P
Offices	C <sup>3</sup>		P <sup>5</sup>	P	P
Playgrounds; parks; arenas	C <sup>2</sup>		C	P	P
Schools; churches; hospitals					P
Single-family residences	<sup>4</sup>				P
Warehouse; light manufacturing; laboratories	P	P <sup>6</sup>	P	P	P
Uses not listed above, but permitted by the underlying zone district	C		P	P	P

Notes:

1. Certain uses may be permitted with proper building design and minimal outdoor uses (see page 14 of ACI50/5050-6).
2. Public assembly areas, noise sensitive cultural activities and nature exhibits are not permitted.
3. Conditional use review is required for proposed development in an area with greater than 65 DNL.
4. Residential uses are prohibited within a noise subzone of 65 DNL or greater.
5. Retail and office square footage to be determined through development plan review.
6. Warehousing and outdoor storage only, with no permanent occupancy.

E. Development Requirements: The following requirements are cumulative:

1. Requirements Prior To Building Permit Issuance: Within the ANAV subzone the following requirements apply and must be met prior to building permit issuance:
  - a. Unless previously granted for the property, an avigation easement must be granted and recorded.

- b. Referral to Airport Advisory Commission or its designee for review and comment to ensure that any proposed structure does not penetrate the elevations shown on the Colorado Springs Airport Map.
- c. Referral to Airport Advisory Commission or its designee for review and comment is required if the land use or permit request is for a communication facility, wastewater treatment facility, lift station or other use utilizing electronic communications or emitting electromagnetic radiation which may create electrical interference with radio communication and navigational aids.

2. Requirements For New Development, Rezoning Or Subdivision: Within the ANAV subzone the following requirements apply for new development, rezoning or subdivision plat:

- a. Airport Advisory Commission or its designee shall review and comment on all applications.
- b. As a condition of approval, the applicant shall grant and record an aviation easement for the benefit of the Colorado Springs Airport.
- c. For subdivision plats or replats, the aviation easement recording information shall be referenced in the notes section of the plat.

3. Additional Requirements Within Airport Noise Subzone (ADNL): Additional requirements within sixty five (65) DNL airport noise subzone (ADNL) shall be as provided herein:

The following are necessary prior to the issuance of a building permit, if not previously completed as a part of new development:

- a. Airport Advisory Commission or its designee shall review and comment upon all applications.
- b. For proposed development within an existing residential zone, a noise level reduction of thirty (30) dBA shall be achieved and evidence of a noise reduction certificate provided.
- c. Any rezoning of residentially zoned property to another residential or multi-family zone district shall not increase density beyond that permitted by the current zoning of the property.
- d. Nonresidential land uses as identified in the table in subsection D of this section are considered a conditional use unless a thirty (30) dBA noise reduction is achieved and evidence of a noise reduction certificate provided.

4. Construction Or Alteration Requiring FAA Notice:

- a. Any person proposing construction or alteration of an improvement shall notify the FAA as required by 14 CFR part 77, as amended, or any similar regulation or statute which may later be enacted in total or in part.
- b. Any notice required by this section shall be on FAA form 7460-1, "Notice Of Proposed Construction Or Alteration".
- c. Notice required under this part shall be completed and a determination from the FAA be made as an attachment to title 30 applications, where required.

5. Installation And Maintenance Of Marking Or Lighting On Improvements Requiring FAA Notice; Penalty: In granting any City permission, the Planning Commission or City Council may, if it deems

an action advisable to carry out the purposes of this section and reasonable in the circumstances, condition any development approval to require the owner of the improvement conditioned by the FAA at the time these regulations are adopted, to install, operate and maintain at the person's expense, markers and lights as may be necessary to indicate to aviators the presence of an obstruction to flight. The City may, with the permission of the person and at the person's expense, own, install and operate upon improvements so conditioned by the FAA at the time these regulations are adopted, markers or lights as may be necessary. After initial installation, the City may, upon written notice to the person, require the person to maintain those markers or lights in conformance with the standards of the FAA. Any person who fails to install, operate or maintain a marker or light or pay the required expenses shall be charged with a misdemeanor for creating a hazard.

6. Prohibited Improvements: No improvement shall be erected, altered, or allowed to grow, or shall be maintained in any portion of the AO that is in excess of any of the airport imaginary surfaces described in this section. For purposes of computation, the base level of the site in question shall be the highest point on which a structure is proposed according to USGS 1: 24,000 quad. In cases where conflicts exist, the USGS datum shall apply, except in cases in which the developer submits detailed engineering data that would result in alteration of the USGS datum.
7. Electrical Interference: Notwithstanding any other provisions of this section, no use may be made of land within any zone established by this section in a manner that creates electrical interference with radio communication or navigational aids between the airport and aircraft, makes it difficult for flyers to distinguish between airport lights and others, results in glare in the eyes of flyers using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft.
8. Conflicts: In cases in which the provisions of the AO zone and the underlying zone conflict, the more restrictive provisions shall apply. (Ord. 3904; Ord. 3905; Ord. 8013; 1968 Code §§14-51.1, 14-51.3, 14-51.4, 14-51.5, 14-51.6, 14-51.7; Ord. 80-131; Ord. 86-229; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 06-89; Ord. 09-70)

### **7.3.507: P - PLANNED PROVISIONAL OVERLAY/CR - CONDITIONS OF RECORD:**



A. Purpose And Description: The planned provisional overlay or conditions of record are to be used to establish special procedures or development standards when the base zone district will not adequately address unique situations or anticipated relationship problems with an existing developed area. This overlay district may be used with any zone district listed in this section in both newly developing areas as well as older, redeveloping areas of the City when necessary to meet one of the criteria listed below. All conditions designated by the City Council shall be made a part of the approved ordinance. To establish a P (planned provisional overlay) or CR - conditions of record with a base zone, at least one of the following criteria must be met:

1. The base zone is not adequate in the particular situation to protect the surrounding developed area;
2. Additional improvements are needed to provide a better transition between different categories of uses.

B. Conditions May Be Established: Conditions of records or provisions may be requested by an applicant or imposed by the Planning Commission or City Council. The following is a list of examples only and should not be interpreted as an all inclusive list:



1. Eliminate permitted uses within the base zone. This may not be done without the knowledge of the property owner;
2. Increase the amount and/or designate the materials and design of fencing;
3. Increase required setbacks, parking, or landscaping;
4. Decrease the amount and/or designate the materials and design of signs; and
5. Lessen minimum requirements of the base zone. These shall be limited to the following:
  - a. Front, rear, and/or side yard setbacks may be reduced up to ten percent (10%);
  - b. Lot coverage may be increased up to five percent (5%); and
  - c. Parking requirements may be reduced up to ten percent (10%).

C. Amended Or Removed: Conditions of record or provisions may be amended or removed. Conditions of record or provisions may be amended, modified, removed or eliminated only by an application request by the applicant or the Manager and upon the recommendation of the Planning Commission and approval of the City Council. All conditions of record or provisions designated or imposed by the City Council affected by an approved ordinance shall only be made by an amended ordinance. This request would not change or amend the zone district for the affected property.

D. Invalid Declaration: If the application of any provision or condition of this section to any lot, building or other structure, or a tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that lot, building or other structure, or tract of land immediately involved in the controversy, action, or proceeding in which the judgment or decree of invalidity was rendered, and such decision shall not affect, impair, or nullify this section as a whole or the application of any provision thereof to any other lot, building or structure, or tract of land.

E. C-5/P Zone On West Colorado Avenue Between 7th And 23rd Streets: The following provisions are established for all properties zoned C-5/P on Colorado Avenue between 7th and 23rd Streets:

1. Minimum Parking Spaces Required:
  - a. Single-family dwelling units: No requirement.
  - b. Multi-family dwelling units: One space per unit.
  - c. Office: One space per eight hundred (800) square feet<sup>1</sup>.
  - d. Retail: One space per six hundred (600) square feet<sup>2</sup>.
  - e. Restaurants: One space per two hundred (200) square feet<sup>3</sup>.

- f. Other uses: Maximum of twenty percent (20%) reduction.
2. Off Site Parking: In fulfilling the amended parking requirements in the C-5/P zone, parking spaces may be provided off site within five hundred feet (500') on Colorado Avenue. A guaranteed access easement will be required as evidence of secured off site parking.
3. Reduced Front Yard Setbacks: Front yard setbacks along Colorado Avenue may be reduced to conform to the existing front yards on adjacent properties. Parking lots may, therefore, utilize any additional space gained from reduced front yard setbacks.
4. Backing Of Vehicles In Alleys: In order to provide greater flexibility in satisfying the amended parking requirement, the ordinance prohibition against unparked vehicles backing across a property line shall be waived for those parking spaces accessed from an alley on the condition that vehicles unparking which back into an alley are clearly visible from both alley directions.
5. Parking Lot Plan Required: A parking lot plan shall be submitted showing the layout of spaces, aisles, access points, driveways, setbacks and landscaping/screening of parking lots visible to Colorado Avenue.
6. Change Of Use: Each approved parking lot plan shall be limited to the use of the property or all similar uses having the same parking requirements. Any change of use which would increase the parking requirement must be accompanied by a new parking lot plan submitted for approval.
7. Signs: Signs must meet the existing signage requirements for the C-5/P zone.
8. Ordinance Requirements Apply: All other existing ordinance requirements will apply to Colorado Avenue between 7th and 23rd Streets including all uses permitted in the C-5/P zone except as limited by a plan previously approved under the C-5/P zone. (Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 12-67)

### **7.3.508: SS - STREAMSIDE OVERLAY ZONE:**

#### A. Purpose, Applicability And Objectives:

1. Purpose: Certain areas of the City are characterized by intermittent and perennial streams which provide significant wildlife habitat, riparian vegetation, water quality protection, flood protection, open space and multiuse trail opportunities which add to the character, attractiveness and quality of life of the community. It is the purpose of the streamside overlay zone district to guide the development and maintenance of the property adjacent to these stream corridors in a manner that is compatible with the environmental conditions, constraints and character of these areas.
2. Applicability: The streamside overlay zone encompasses all land within the stream channel, including stream adjacent wetlands, and within a specified distance from the toe of the channel bank of specific intermittent and perennial streams within the City, as represented by the official streamside overlay zone as shown on the City zoning map. Streamside overlay zone requirements are not applicable to those wetland areas that extend beyond the mapped streamside overlay zone district boundary. However, wetlands that are wholly or partially outside of the mapped streamside overlay shall be analyzed and protected as indicated or recommended by a land suitability analysis, when required.

3. Objectives: It is the objective of this section to protect and enhance streamside areas by promoting planned development within the streamside overlay zoned areas to the extent that those developments are found to be in accord with the streamside development plan review criteria and the streamside protection standards found in this section. Those parcels of land that have a significant proportion of streamside overlay zone are encouraged to consider establishing a PUD zone district where density, setbacks, building height, and other issues may be established which allow adequate use of the property while also meeting the streamside overlay zone's requirements and review criteria. If rezoning to PUD is not acceptable, the City may consider variance requests which help the project to meet the streamside overlay zone requirements and review criteria. All rezoning and variance requests shall be considered on a case by case basis.

**B. Definitions:**

**BEST MANAGEMENT PRACTICES (BMPs):** See section [7.7.1502](#) of this chapter.

**CHANNEL WIDTH:** Measured from the toe of the channel bank on one side of the channel to the toe of the channel bank on the other side of the channel.

**IMPERVIOUS SURFACE:** See subsection [14.8.107A](#) of this Code.

**PRUDENT LINE:** Defines a buffer zone for erosion and flooding potential within which development would not be considered prudent if the channel were to remain in a natural state.

**RIPARIAN HABITAT:** The area adjacent to flowing water that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other.

**RIPARIAN VEGETATION:** Vegetation that requires the continuous presence of water, or conditions that are more moist than normally found in the area.

**SIGNIFICANT NATURAL FEATURES:** See section [7.2.201](#) of this chapter.

**STREAMSIDE BUFFER:** Areas of land within a specified distance of the edge of the stream channel. Areas have been identified as significant based upon their typical size, natural and vegetative characteristics, wildlife habitat suitability, open space and recreational opportunities and permitted and/or prohibited land use potential.

**TOE OF THE CHANNEL BANK:** Can be identified as the point where the sloping bank becomes level or nearly level to the channel bed (or water level). It is also often identified as the point where bank vegetation terminates with channel substrate (sand, gravel, cobble, boulder or bedrock). Some streams within the City (i.e., Fountain Creek, Monument Creek, Templeton Gap Floodway) have very wide channels which are typically only partially utilized by flowing water; the water flow meanders within the channelized area and is subject to significant fluctuations from year to year.

**WETLAND:** Those areas that are inundated or saturated by surface water 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 swamps, marshes, bogs, and similar areas.

- C. Development Plan Review Criteria:** The purpose of this subsection is to prescribe criteria to be used to review and evaluate development projects located within streamside overlay areas. In

addition to the development plan review criteria as set forth in section [7.5.502](#) of this chapter, all development plans submitted for review for property wholly or partially contained within the streamside overlay zone shall be consistent with the recommendations of the streamside design guidelines manual, the land suitability analysis, if required, and shall conform with the following streamside development plan review criteria:

1. Has the natural landform been maintained within the overlay area and does grading conform to the specific grading limitations of this section as well as all other City grading and filling regulations?
2. Does the development incorporate the stream ecosystem into the project design and complement the natural streamside setting? Has the project been designed to link and integrate adjacent properties with the stream corridor using accessways, creek front plazas, employee recreational areas or other site planning and landscaping techniques which include the stream corridor as an amenity?
3. Has the project been designed to minimize impact upon wildlife habitat and the riparian ecosystem which exists on or adjacent to the site? Does the project design protect established habitat or any known populations of any threatened or endangered species or species of special concern?
4. Have existing or potential community trail networks and other recreational opportunities been identified and incorporated into the project design?
5. Has the project been designed to protect the subject property from potential flood damage and to accommodate flood storage and conveyance needs?
6. Have all significant natural features within the project streamside area been identified, and has the project been designed to minimize the impact on these features?
7. Does the project identify and implement the recommendations of any approved subarea plans (such as the City greenway master plan, City open space plan or a specific drainage basin planning study) and of any approved public works projects and habitat conservation plans?
8. Does the project design:
  - a. Implement a riparian buffer of specified width between the developed portions of the site and the adjacent waterway to assist in preventing point and nonpoint source pollutants and sediment from entering the waterway?
  - b. Exclude impervious surfaces from the inner buffer zone and meet imperviousness restrictions across the entire overlay?
  - c. Incorporate all stormwater BMPs required by City Engineering throughout the developed site and adjacent to the buffer to encourage on site filtration of stormwater and protect water quality?
  - d. Incorporate visual buffer opportunities of the stream between identified existing and/or proposed projects on opposing sides of the stream?
9. Are inner and outer buffer zone landscaping standards met? Have disturbed areas been revegetated to minimize erosion and stabilize landscape areas and does the project landscaping design specify plants selected from the riparian plant communities as set forth in appendix A of the landscape policy manual? Does the proposal meet all other requirements of the City's landscape code?

10. Have stream bank and slope areas been identified (particularly those over 15 percent slope)? Has the disturbance to these areas and any protective or stabilizing vegetative cover been minimized? Does the plan provide for the suitable revegetation and stabilization of any disturbed areas?
11. Have opportunities to reclaim the drainageway been identified and implemented where practical? For this criterion, reclamation constitutes any action that improves the quality of that drainageway visually, functionally or recreationally, and brings that drainageway into a more natural condition.

Judgment of the above criteria shall be made using the project justification statement submitted with streamside development plan applications which shall include a narrative discussion of how each streamside development plan review criteria has been considered and applied in the design of the project, and should demonstrate consistency with the opportunities and constraints identified in the project's land suitability analysis. This requirement may be satisfied by the written summary submitted with the land suitability analysis if that summary has been broadened to include analysis of the streamside development plan review criteria.

#### D. Amendment Of The Streamside Overlay Zone Boundary:

1. Establishment By Annexation: The boundary of the streamside overlay zone may be established in conjunction with the determination of zoning district classification of newly annexed areas for stream corridors which exhibit a continuation of the relevant stream characteristics and/or streamside overlay zone already existing within the City.
2. Refinement: Refinements of the streamside overlay boundary, which occur during the development review application process, shall not require an ordinance to amend the overlay boundary if those refinements are otherwise consistent with this section. Typical refinement includes the definition of the edge of the channel and the toe of the bank. The location of the stream channel and toe of the channel bank as illustrated on the City's zoning map will be refined with the review and approval of every streamside development plan and/or streamside site plan. Proposed changes should be supported by a professional survey of the stream channel location and shall be recorded on any plans submitted for the project site. Once established by an approved development plan, the overlay boundary shall remain fixed without regard to changes in the associated stream cross section unless a subsequent change in the streamside overlay boundary is specifically requested by the applicant and mutually agreed to by the applicant and the Manager.
3. Stream Realignment: Major channel realignment or the elimination of existing stream channels that are identified on the streamside overlay zone in the City zoning map require completion of the formal zone change procedures described in article 5, part 6 of this chapter. The proposed realignment must include significant mitigation activities that replace and/or improve upon existing flood control, wildlife habitat, water quality and aesthetic values.

E. Development Standards: The purpose of this section is to prescribe the requirements for submittals, approvals and administration of development review applications and to identify the streamside protection standards for development within streamside overlay areas.

#### 1. Submittals, Approvals And Administration:

- a. Streamside Development Plan Approval Required: For any property which is designated on the zoning maps of the City as being within the streamside overlay zone, no grading, filling, dumping, property disturbance or removal of trees or other significant vegetation shall occur, nor shall any

building or structure be erected, nor shall any subdivision plat be approved until a streamside development plan has been approved, in accord with this section and article 5, part 5 of this chapter.

b. Streamside Master Plan And Concept Plan Applications: Applications for streamside overlay affected concept plans and master plans shall be reviewed for consistency with this section; these plans may be used to identify streamside overlay areas, establish buffer and impervious surface averaging determinations, and to average any other of the streamside standards across the entire respective plan area.

c. Hillside Overlay Conflicts: Where the streamside overlay overlaps a hillside overlay zone district, the requirements of the streamside overlay zone shall supersede the requirements of the hillside overlay zone within the overlap area.

d. Land Suitability Analysis:

(1) Purpose: The land suitability analysis provides the basic information about a site's physical characteristics and features and is used to assess the impact of proposed development across the entire project both on and off the site. The report shall consist of both a written and graphic analysis of the physical and environmental factors which affect the site.

As not all sites will contain all of the elements listed, or because some sites may have unique considerations, the Manager may waive certain elements of the land suitability analysis or require additional analyses. The landowner or the authorized representative shall submit in writing a letter stating the reason for any requested waiver and list all exceptions being sought.

(2) City Review: A land suitability analysis shall be required in conjunction with the City's review of the following:

(A) New master plan including property within a streamside overlay zone.

(B) Major amendment to a streamside master plan.

(C) Streamside development plan.

(D) Streamside concept plan.

(3) Content Of The Land Suitability Analysis:

(A) Channel Bank Toe Graphic: Graphic portrayal of toe of the channel bank and the streamside overlay boundary.

(B) Slope Analysis: Identify slope ranges for parcels to assess the potential of sites for intensity of development and to identify areas of potential hazard. Slope analysis shall be provided in the following increments and use a contour interval of two feet (2'):

Zero percent (0%) to eight percent (8%): Generally suitable for development (outside the 100-year floodplain);

Eight percent (8%) to twelve percent (12%): Increased potential for engineering difficulties, moderate potential for activating site hazards;

Twelve percent (12%) to fifteen percent (15%): Increased potential for engineering difficulties, moderately high potential for activating site hazards;

Fifteen percent (15%) to twenty five percent (25%): High potential for activating hazard potential;

Twenty five percent (25%) and greater slopes: Very high potential for development difficulty, severe hazard potential.

(C) Riparian Vegetation And Wildlife:

(i) Wetland vegetation, grasslands, forbs, thicket vegetation and similar shrubs establish and show the drip line perimeter of all thicket vegetation clusters of ten feet (10') or greater diameter, deciduous trees of six inches (6") or greater diameter and coniferous trees in height of twelve feet (12') or greater cover are major components of streamside areas. Analysis shall show the physical location of vegetation and the following items:

(a) Ecological communities as defined under the national vegetation classification system developed by the Nature Conservancy;

(b) Wildlife habitat and migration corridors consistent with current information of the Colorado Division of Wildlife.

(D) Geology, Soils And Natural Features:

(i) Geologic analysis including identification of significant natural features and geologic hazards and constraints which require unusual mitigation during design and construction of structures and/or infrastructure (e.g., down slope creep, flood hazards and fragile bank areas).

(ii) Soils analysis, utilizing information from the Natural Resource Conservation Service, USDA.

(iii) Natural and manmade features, including identification of significant site features such as streambeds, stream banks, cliff or rocky outcroppings four feet (4') or greater in height, and other drainage and existing land uses. The Colorado Springs open space plan (appendix 4: data sources) shall be consulted in identifying these features.

(E) Map Intervals: Topographic map using two foot (2') contour intervals.

(F) Analysis Package:

(i) Composite Map: The components of the land suitability analysis shall be overlaid and, as a result, a composite map of opportunities and constraints shall be prepared to direct the location of proposed land uses and structural development.

(ii) Written Text: A summary of the existing site features and constraints and how the development of the site will occur in a manner which considers both the opportunities and constraints. The analysis must address mitigation for the site's physical constraints and hazards. This narrative shall include a bibliography of reference sources and curriculum vitae of the preparer. The latter requirement shall not be construed to imply a standard of qualifications for preparers.

e. Financial Assurances May Be Required: Where deemed necessary by the Manager, financial assurances may be required prior to approval of a grading plan or building permit as an offset to the

potential cost of reparations to sensitive streamside areas where development is approved to take place adjacent to, and/or within, streamside overlay areas.

- f. Grading And Erosion Control Plan Approval Required: No grading of any land which is designated on the zoning map of the City as being within the streamside overlay zone shall be undertaken unless a grading and erosion control and revegetation plan has been approved by both City Engineering and the Community Development Department. The grading plan shall comply with the requirements of article 7, part 15 of this chapter. Grading and erosion control plans must be submitted concurrent with the development plan. The grading and erosion control plan must act to implement and be consistent with the design of the associated streamside development plan. No grading shall be permitted outside of the limit of disturbance as defined on the approved streamside development plan and the approved grading and erosion control plan. Grading is subject to the limitations noted in the streamside protection standards of this section.
  - g. Streamside Site Plan (SSP) Required: For those developments noted in subsections F1a and F1b of this section, an SSP may be submitted in place of a streamside development plan. The SSP submittal shall not require a land suitability analysis or an approved grading plan unless otherwise required but shall be subject to all other requirements of this section. Review of the SSP shall occur at the time of the building permit application and shall be subject to the normal procedural and administrative requirements for these applications.
2. Streamside Protection Standards: The purpose of this section is to prescribe streamside protection standards that apply to development projects located within the streamside overlay zoned areas. Approval of a streamside development plan will demonstrate that the development project meets or exceeds the streamside development plan review criteria and satisfies all of the following streamside protection standards.

This section will identify the purpose and characteristics of the three (3) stream types and the three (3) regulatory zones of each stream type, and will prescribe, in accord with stream type and/or buffer zone: a) the recommended acceptable streamside improvements and protective measures, b) the permitted, prohibited and/or conditional land uses, c) the allowable site impervious area permitted, and d) specific provisions regarding grading, landscaping and wall and fence construction.

a. Stream Types And Streamside Buffer Zones:

- (1) Stream Types Defined: Within the City three (3) stream types are identified and are represented on the streamside overlay zone as shown on the City zoning map. The typical characteristics of the stream types are as follows:

Type 1:

Typical channel width less than twenty five feet (25').

Buffers measure seventy feet (70') wide on both sides of channel.

Type 2:

Typical channel width twenty five (25) to seventy five feet (75').

Buffers measure ninety feet (90') wide on both sides of channel.

Type 3:



Typical channel width greater than seventy five feet (75').

Buffers measure one hundred twenty feet (120') wide on both sides of channel.

- (2) Streamside Buffer Zones: Streamside buffer zones are established within a specified distance of the edge of the stream channel (toe of the channel bank) for each of the specific stream types within the City. Specific buffer zones have been identified as significant based upon their typical size, natural and vegetative characteristics, wildlife habitat suitability, open space and recreational opportunities and permitted and/or prohibited land use potential.

All streamside zoned land falls within one of three (3) regulatory categories: a) stream channel, b) inner buffer zone, or c) outer buffer zone. Uses, landscaping standards, grading and impervious surface limitations vary depending on buffer zone.

- (A) Stream Channel: The protection of the stream channel is critical for flood mitigation, water quality, and wildlife habitat. It is identified as the area between the toe of both channel banks. All proposed uses for the stream channel are subject to the review and approval of City Engineering. Wetland areas which are between defined channel banks and are contiguous to the stream itself are to be considered as part of the stream channel regulatory category. Stream bank stabilization, restoration activities, trail crossings and flood control activities are typically the only permitted activities within the stream channel.

- (B) Inner Buffer Zone: The inner buffer zone is measured outward from the toe of the channel bank. It is considered a preservation area where uses are restricted to flood control, stormwater BMPs, landscaping, utility corridors and recreational trails. Impervious surfaces are not permitted within the inner buffer zone. Specific permitted, prohibited and/or conditional uses, impervious surface limitations, grading limitations and landscaping standards apply within the inner buffer zone.

- (C) Outer Buffer Zone: The outer buffer zone extends from the outward edge of the inner zone to the outer extent of the overlay area. The full range of uses that are permitted in the base zone (unless listed in subsection E2d(1) of this section) are permitted in the outer buffer zone. The outer buffer zone may often be an area of increased activity to improve the human relationship with adjacent stream areas. Specific permitted, prohibited and/or conditional uses, impervious surface limitations, grading limitations and landscaping standards apply within the outer buffer zone.

The following table indicates the streamside types, their associated streamside buffer zone widths and a general vegetative and land use characteristic description:

**STREAMSIDE BUFFERS**

	Width			Vegetation			Uses		
	Channel	Inner	Outer	Channel	Inner	Outer	Channel	Inner	Outer
Type 1	Less than 25'	20'	50'	Little to no vegeta	Riparian vegetati on	Ripari an or upland	Stabiliz ation, restorati	Riparia n area; flood	Uplan d area;

Type 2	25 - 75'	30'	60'	tion; riparian where present	corresponding to appendix B; 1 tree per 20' of stream frontage	vegetation; 1 tree per 30' of stream frontage	on, and flood control only	control, stormwater BMPs, landscaping, and recreational uses; no impervious surfaces	all uses permitted within the underlying zoning and complying with subsection E2a(2)(C) of this section
Type 3	More than 75'	40'	80'						

- b. Site Imperviousness Standards: Those portions of the subject parcel or project that fall within the inner or outer buffer zone of the streamside overlay area shall be used to calculate a ten percent (10%) limit on impervious surface. A streamside development plan shall demonstrate that the ten percent (10%) impervious surface limitation standard is met.
- (1) For the purpose of this section "impervious surface" means a surface on or in real property where the infiltration of stormwater into the earth has been reduced by manmade improvements such as, but not limited to, buildings or other structures, streets, parking lots, driveways, patio areas, roofs, sidewalks, paving and compacted surfaces.
  - (2) For purposes of determining percentage impervious surface, the impervious surface calculation shall be based upon the area of the lot or project that is located within the inner and outer buffer zone of the streamside overlay zone boundary.
  - (3) No impervious surface is permitted within the stream channel or inner buffer zone; it may be located within the outer buffer zone area. Recreational trails within the overlay zone are exempt from impervious surface calculations and restrictions. Impervious surface outside the overlay zone is not regulated by this section and is only subject to coverage limitations imposed by the base zone, as applicable.
  - (4) Sites will be allowed up to 2.5 times the above indicated impervious surface allowances (i.e., 25 percent imperviousness) if the plan can provide either:
    - (A) Approved "water quality capture volume" (WQCV) detention which is acceptable to City Engineering under its municipal stormwater discharge permit BMP requirements. Types of facilities allowed and design criteria will be determined by City Engineering. The WQCV and detention period determinations shall be provided by the applicant and must be prepared by a professional engineer licensed in the State of Colorado and shall be included as a component of the drainage report. To

qualify for this partial relief of the imperviousness requirements, the detention area must fall outside of the 100-year floodplain, as amended and as it exists prior to any grading, filling and development activity. Determination of qualification under this part shall be made by City Engineering; or

(B) Provide streamside improvements that exceed drainage basin planning study requirements or other development standards and are acceptable to City Engineering and the Community Development Department. Improvements that will be considered include, but are not limited to, stream bank stabilization and grade control, replacing concrete stream channels with bioengineering or other stabilization techniques that allow more infiltration yet provide economical maintenance, ecological restoration activities including invasive species removal, riparian habitat restoration and other significant ecological improvements. Designs under this option must be approved by City Engineering and the Community Development Department.

c. Landscaping Requirements: In addition to standard City landscaping requirements, any development project within the streamside overlay zone is required to meet the following landscaping standards specific to the inner and outer buffer zones. "Alternative compliance" as described by section [7.4.307](#) of this chapter and the landscape policy manual shall apply to the following requirements:

(1) Inner Buffer Zone: The inner buffer zone shall be vegetated with at least one tree for every twenty feet (20') of stream frontage. Shrubs may be substituted for required trees at the rate of ten (10) shrubs for every tree, with no maximum percentage of shrub substitute. If the inner buffer zone corresponds with the 100-year floodplain, vegetation should be selected to both stabilize the channel bank and protect the stream's flood capacity. Existing appropriate riparian or upland vegetation within the inner buffer may count toward fulfilling this requirement.

(2) Outer Buffer Zone: The outer buffer zone should be vegetated with at least one tree for every thirty feet (30') of stream frontage. Shrubs may be substituted for required trees at the rate of ten (10) shrubs for every tree, with a maximum of fifty percent (50%) shrub substitute. If the outer buffer zone corresponds with the 100-year floodplain, vegetation should be selected to both stabilize the channel bank and protect the stream's flood capacity. Existing appropriate riparian or upland vegetation within the outer buffer may count toward fulfilling this requirement.

d. Streamside Land Uses: All land uses identified as permitted or conditional uses within a base zone are typically allowed within the streamside overlay zone. However, due to the potential for negative impact and the incompatibility with adjacent stream segments the following principal uses and their accessory uses, when allowed as permitted or conditional uses within their base zone district, shall be processed as follows:

(1) Prohibited Uses: The following uses and their accessory uses are prohibited on any streamside overlay zoned properties. Prohibited uses legally existing on November 12, 2002, will be allowed to continue, but will not be allowed to expand beyond their current extent in accord with article 5, part 12 of this chapter.

Commercial feedlots.

Construction batch plant.

Convenience food sales (with fuel sales).

Detention facilities.

Garbage service companies.

Heavy industry.

Kennels (commercial only).

Landfill.

Large recycling collection center.

Laundry services.

Meatpacking and related industries.

Mining operations.

Recycling processing center.

Scrap metals processing yard.

Stockyards.

Transfer station.

Truck terminal.

Vehicle dismantling yard.

(2) Conditional Uses: Due to the potential for negative impacts to the streamside overlay area, the following uses shall be processed as conditional uses as described in article 5, part 7 of this chapter on any streamside overlay zoned properties. Site features such as existing or future trail systems shall be considered when evaluating a conditional use request. Approval of the following uses may require additional BMPs and/or additional mitigation as part of the conditional use and streamside development plan review and approval. Exclusion from this list does not guarantee that additional BMPs and/or mitigation will not be required as part of the development plan approval process.

Automotive and equipment services.

Construction sales and services.

Contractors' yards.

Light industry.

Manufacturing.

Miniwarehouses.

Outdoor storage (whether accessory or principal use).

Parking lot (except as an accessory).

Warehousing and distribution.

e. Fence Requirements: Fences constructed within the streamside overlay area must be of an open design allowing the stream to be visible from the subject property. Metal (chainlink or wire) may be added for security, but only as an attachment to an acceptable fence as described in this section. Opaque fencing is prohibited. No fencing shall extend into the 100-year floodplain area. The Community Development Department may waive this requirement for projects where screening of the streamside use is needed for other streamside adjacent properties.

f. Grading Requirements: Grading within the streamside overlay is subject to the following requirements:

(1) Grading: Proposed grading should be minimized within the approved limit of disturbance, particularly within the inner buffer zone. The overall proposed grading from the toe of a slope adjacent to a stream to the top of the graded slope may not exceed three to one (3:1) unless retaining walls are utilized in accord with this section.

(2) Walls: Walls of up to six feet (6') in height (maximum) may be permitted. The walls will require appropriate landscape screening, and the linear extent of any one section of wall may not exceed two-thirds ( $\frac{2}{3}$ ) of the length of the stream frontage or three hundred feet (300'), whichever is less. Breaks in wall sections required by this section shall be no less than thirty feet (30') in width. Topographic contour information provided on grading plans shall be at the two foot (2') contour interval.

(3) Revegetation Plan: All grading plans for streamside zoned areas must include a revegetation plan that addresses short and long term erosion and slope stability concerns.

(4) Protective Measures: All land use proposals within the overlay which require grading and soil erosion control plan approval from City Engineering and the Community Development Department must implement protective measures such as fencing or flagging along the outer boundary of the inner buffer zone to ensure that prohibited activities, storage of construction related materials or equipment, or destruction of any type, are excluded from the inner buffer zone.

F. Exemptions: The purpose of this section is to identify specific properties, projects and/or development activities that may be exempted from all or a portion of the streamside overlay zone requirements set forth in this section. A note shall be included on the streamside development plan, development plan, or streamside site plan identifying exemptions approved for the project.

The only acceptable exemptions are as follows:

1. Single Dwelling Residential Developments:

a. New Residential Development: A single lot for a new single-family or two-family dwelling that is at least partially within the streamside overlay zone may be reviewed as a streamside site plan. Streamside site plans shall not require the submittal of a streamside development plan or land suitability analysis, but shall otherwise be reviewed for compliance with the requirements of this section.

b. Residential Additions: Single residential dwellings located at least partially within the streamside overlay zone which existed as of November 12, 2002, are exempt unless a building permit is requested and/or additional impervious surface is proposed which would increase the gross footprint and impervious surface area of the development on the lot by fifty percent (50%) or more than that which existed as of November 12, 2002, in which case the streamside site plan requirements apply.

2. Expansion Of Existing Nonresidential And Multi-Family Uses: Proposals to expand building footprints or accessory impervious areas of existing commercial, office, industrial, multi-family and institutional uses by up to thirty percent (30%) of the approved area as of November 12, 2002, are exempt from the streamside overlay zone requirements as long as the following conditions exist:
  - a. The land use is permitted within the base zone district.
  - b. The land use is not a prohibited land use type within the streamside overlay zone as set forth in subsection E2d(1) of this section.
  - c. The expansion project does not include any additional fill material within the overlay portion of the site.
  - d. No new impervious surfaces are proposed within the inner buffer zone as described in subsection E2a(2)(B) of this section.
3. Separated Development:
  - a. Street Separated: Properties which are totally or partially contained within the streamside overlay zone but which are completely separated from the identified stream by a public or private street are not subject to the regulations of the streamside overlay zone. The properties shall comply with all other applicable provisions of the City Code for development.
  - b. Functionally Separated: Properties which are adjacent to stormwater drainage channels that are completely lined with concrete may be exempted from this section. A project may be exempted if the reviewing planner, the reviewing engineer and public comments taken during the preapplication stage of development review mutually and/or generally support that the portion of the property which is contained within the streamside overlay zone does not: 1) exhibit any of the important riparian characteristics or recreational opportunities which are intended to be enhanced through the application of this overlay zone; and 2) the proposed development activities will not adversely impact on site or downstream riparian values. If exempted, the project shall be processed in accord with the standard development plan and grading procedures applicable to the base zone.
4. Prudent Line Setback: Streamside Overlay Zone sites with an active prudent line setback adopted prior to November 12, 2002, are exempt from all Streamside Overlay regulations of this section. Streamside sites with a prudent line setback adopted after November 12, 2002, are exempt provided that the process of determination and adoption of the setback by City Engineering involves a review by the Community Development Department of the proposed prudent line for compliance with the objectives and requirements of this section. Pursuant to this exemption, a plan (master, concept or development) shall be filed with and approved by the Community Development Department prior to obtaining final approval of a prudent line setback request.
5. Public Facilities: Work to install, replace, repair, rehabilitate or maintain public facilities, including, but not limited to, utilities, stormwater and drainage facilities, trails and parks, is subject to partial exemptions to the Streamside Overlay Zone regulations as follows:
  - a. Grading for the purpose of installing new public utilities, public drainage improvements, trails or park amenities or for the purpose of constructing stream stabilization measures, as required by the City of Colorado Springs Utilities, may be accomplished upon grading plan and erosion control plan approval by both the Community Development Department and City Engineering.

- b. For emergency repair of public facilities within the Streamside Overlay Zone, approval of a grading plan and erosion control plan is not required prior to commencing work. Emergency situations include water and wastewater pipeline breaks, down power lines, gas line breaks, severe bridge damage, severe channel and roadway damage or other related work requiring immediate attention to protect the public health, safety and welfare.
- (1) The Community Development Department and City Engineering shall be notified the next workday following commencement of the emergency repair work.
  - (2) The execution of emergency repairs shall minimize impacts to the stream environment, particularly wetlands and wildlife habitat.
  - (3) The disturbed area will be restored to preemergency conditions as soon as possible following completion of repairs.
  - (4) For administration and planning of these activities, including BMPs during the repair operation and restoration of the disturbed area, the Community Development Department may enter into agreements with other City departments or Colorado Springs Utilities. Any emergency repairs which extend significantly beyond that contemplated within those agreements shall be addressed by joint review and approval of an amendment to the subject agreement.
- c. The routine replacement, restoration, rehabilitation or maintenance of public facilities may be accomplished through either:
- (1) A site specific grading plan and erosion control plan approved by both the Community Development Department and City Engineering prior to commencement of the work; or
  - (2) A prenotification that the work will be performed in accord with BMPs stipulated through an agreement between the Community Development Department and other City departments or Colorado Springs Utilities.

6. Exempted Uses: The following uses within the Streamside Overlay Zone area shall be exempt from the requirements of this section. However development incidental to the following uses shall still meet the grading and impervious surface standards of this section:

Agricultural uses such as general farming, ranching, nurseries and forestry operations.

Private recreational uses such as golf courses, archery ranges and ballparks.

Residential uses such as lawns, gardens and play areas.

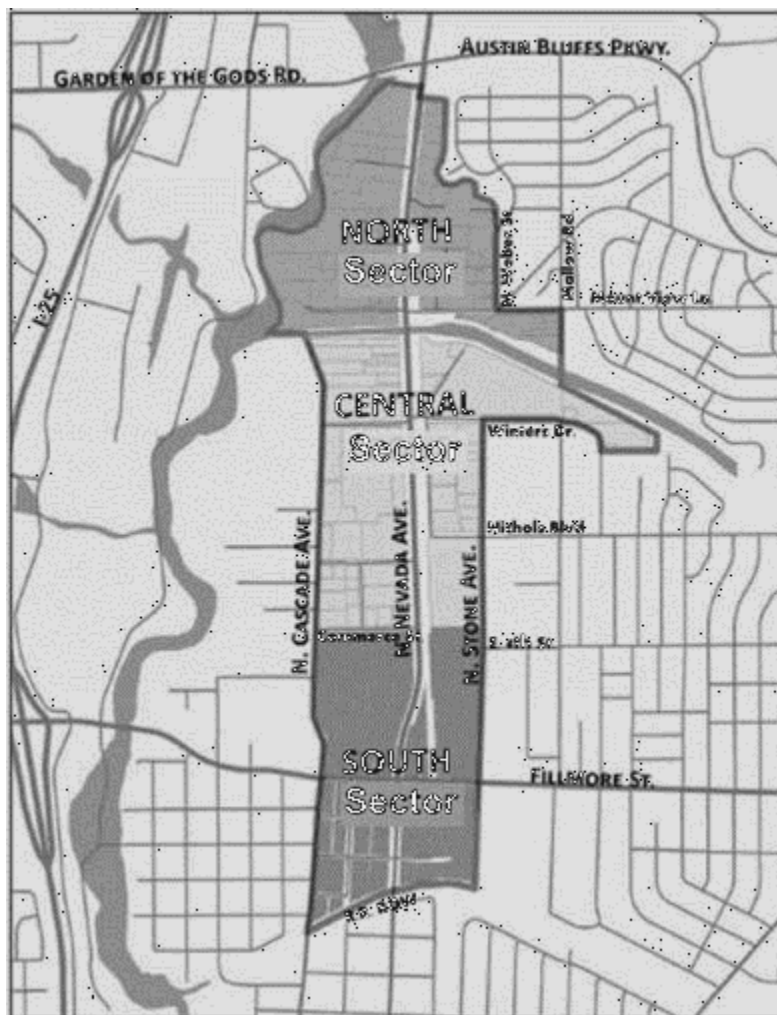
Any other woodland, grassland, wetland, agricultural, horticultural, or recreational uses of land or water not contrary to requirements of this section. (Ord. 02-166; Ord. 07-179; Ord. 09-80)

### **7.3.509: NNA - NORTH NEVADA AVENUE OVERLAY:**

A. Purpose, Goals, Applicability And Objectives:

1. Purpose And Goals: The purpose of the overlay is to implement the goals of the Master Plan adopted for the geographic area of North Nevada Avenue as illustrated in the map below. The goals include:

- a. Create a creative mix of business types and uses that support and employ our residents and serve as a regional economic magnet;
  - b. Strengthen connections within the area and to the community by improving roadways and expanding transit service;
  - c. Strengthen housing option that serves the need of existing and new residents and offers options for all ages and levels of income; and
  - d. Integrate the corridor's streets, sidewalks, drainage, streetscape and other City infrastructure.
2. Applicability: The overlay applies to the area generally described lying south of Garden of the Gods/Austin Bluffs, east of Monument Creek and Cascade Avenue, west of Weber Street and Stone Avenue and north of the Old North End at the railroad right-of-way. The overlay is broken into three (3) sectors, the north, central and south.



3. Objectives: The overlay encourages new investment while ensuring that redevelopment balances private investment objectives with community sustainability. This is accomplished by:



- a. Orienting buildings towards the street and/or City trails/waterways to encourage pedestrian accessibility and walkability;
- b. Fostering the development of mixed uses;
- c. Encouraging multi-story buildings;
- d. Promoting aesthetically pleasing building design;
- e. Encouraging the incorporation of community and sustainable places and landscaping, including public art, public spaces, low impact water quality control, and LEED certified building design, which in turn enhance the desirability of the corridor; and
- f. Minimizing visibility and impact of parking lots and service areas by locating significant parking and service access away from primary streets.

**B. Development Standards:**

1. Building Setbacks: Front yard setbacks are established as a build-within zone, buildings, or portions of it, must be located within the distances specified below within each of the sectors. Rear and side yard setbacks will utilize a standard minimum building setback as specified below within each of the sectors:

Front yard build-to zone:		
	South sector	0 to 15 feet
	Central sector	15 to 80 feet
	North sector	15 to 60 feet
Rear yard setback:		
	South sector	5 feet <sup>1</sup>
	Central sector	15 feet <sup>1</sup>
	North sector	15 feet <sup>1</sup>
Side yard setback:		
	South sector	5 feet <sup>1</sup>
	Central sector	5 feet <sup>1</sup>
	North sector	5 feet <sup>1</sup>

Note:

1. 0 foot setback is permitted if part of overall concept or development plan.
2. Building Heights: Base zoning height maximum applies. Height bonuses shall be granted to a maximum of sixty feet (60') if the development includes any three (3) or more of the following:
  - a. Publicly accessible green spaces/plazas/detached sidewalks that either front a street or connect to sidewalks/trails;
  - b. Publicly displayed art that is minimum one percent (1%) overall project cost;
  - c. Affordable housing (as defined by the U.S. Department of Housing and Urban Development) and/or mixed-income housing;
  - d. LEED certified building plan design;
  - e. Adaptive reuse of historically significant buildings;
  - f. Use of aesthetically-pleasing low impact water quality controls that are accepted by Water Resource Engineering; and
  - g. Shared parking between adjacent properties.
3. Land Uses: The North Nevada Avenue Overlay identifies land uses as permitted, conditional or accessory within each of the identified sectors that make up the overlay. This chart supersedes the Permitted, Conditional and Accessory Use chart in section [7.3.203](#) of this article:

Use Types	South Sector	Central Sector	North Sector
Residential use types:			
Accessory dwelling unit	P		
Detoxification center			
Dormitory, fraternity or sorority house	C		C
Human service establishments:	P	C	C
Domestic violence safe house	P	C	C
Family support residence	P	C	C
Human service facility:	P	C	C
Hospice	P	C	C
Residential childcare facility	P	C	C

	Human service home	P	C	C
	Human service residence:	P	C	C
	Family care home	P	C	C
	Large family care home	P	C	C
	Human service shelter:	P	C	C
	Drug or alcohol treatment facility	P	C	C
	Single-family detached dwelling on individual lot	P		
	Manufactured home	P		
	Mobile home			
	Multi-family dwelling	P	P	P
	Multiple single-family detached dwellings on individual lot	P		
	Multiple two-family dwellings on an individual lot	P		
	Retirement home	P	C	C
	Rooming or boarding house	C		C
	Studio or efficiency	P	P	P
	Two-family dwelling on an individual lot	P		
	General offices:			
	Call center	C	P	C
	Financial services	P	P	P
	General offices	P	P	P
	Medical offices, labs and/or clinics	P	P	P
	Mixed office/residential use	P	P	P
	Commercial use types:			
	Agricultural sales and service			

	Automotive and equipment services:			
	Automotive rentals	C	C	C
	Automotive repair garage	P	C	C
	Automotive sales	C	C	C
	Automotive service	P	C	C
	Automotive storage yard			
	Automotive wash	P	P	P
	Body and fender repair services			
	Construction equipment business			
	Equipment rental and sales			
	Equipment repair services			
	Equipment storage yard			
	Bar	P	P	P
	Bed and breakfast inn	C		
	Building maintenance services	C	P	P
	Business office support services	P	P	P
	Business park	C	P	P
	Campground			
	Commercial center	P	P	P
	Communication services	P	P	P
	Construction sales and services			
	Consumer convenience services	P	P	P
	Consumer repair services	P	P	P
	Crematory services		C	C
	Data center		P	P
	Exterminating services		P	P

	Food sales:			
	Convenience food sales	P	P	P
	General food sales	P	P	P
	Specialty food sales	P	P	P
	Funeral services:	C	C	C
	Crematory service (as an accessory use)	A	A	A
	Hookah bar	P	P	P
	Hotel/motel	P	P	P
	Kennels:			
	Indoor only	P	P	P
	Indoor and outdoor	C	C	C
	Animal shelters	C	C	C
	Liquor sales	P	P	P
	Medical marijuana facility:			
	Medical marijuana center			
	Medical marijuana infused product manufacturer - nonhazardous			
	Option premises cultivation operation			
	Miniwarehouses	C	C	C
	Mixed commercial-residential	P	P	P
	Mixed office-residential	P	P	P
	Personal consumer services	P	P	P
	Pet services	P	P	P
	Pharmacy	P	P	P
	Recreation, commercial:			

	Indoor entertainment	P	P	P
	Indoor sports and recreation	P	P	P
	Outdoor entertainment	P	P	P
	Outdoor sports and recreation	P	P	P
	Restaurants:			
	Drive-in or fast food	P	P	P
	Quick serve restaurant	P	P	P
	Sit down - served at table	P	P	P
	Retail, general:			
	Large retail establishment	P	P	P
	Neighborhood serving retail	P	P	P
	Sexually oriented business			
	Surplus sales	P	P	P
	Teen club/young adult club	P	P	P
	Veterinary service:			
	Large animal hospitals		C	
	Small animal clinics	P	P	P
	Civic use types:			
	Administrative/safety services	P	P	P
	Cemetery			
	Club (membership, social and recreational)	P	P	P
	Community gardens	P	P	P
	Cultural services	P	P	P
	Daycare services	P	P	P
	Detention facilities/halfway houses			

	Educational institutions:			
	Charter school	P	P	P
	College and university	P	P	P
	Nonpublic schools	P	P	P
	Proprietary schools	P	P	P
	Public schools	P	P	P
	Hospital	P	P	P
	Maintenance service facility	C	C	C
	Public assembly	P	P	P
	Public park and recreation	P	P	P
	Religious institution	P	P	P
	Semipublic community recreation	P	P	P
	Social service center	C	C	C
	Utility facilities	P	P	P
	Industrial use types:			
	Accessory retail sales (accessory to principal use)	P	P	P
	Construction and/or contractor yards		C	
	Construction batch plant			
	Custom manufacturing	P	P	P
	Garbage service companies			
	General industry:			
	Heavy			
	Light	C	P	P
	Industrial laundry services (large scale activity)		C	C
	Junkyard			

	Manufacturing	P	P	P
	Meatpacking and related industry			
	Medical marijuana facility:			
	Medical marijuana infused product manufacturer - hazardous		C	
	Mining operations:			
	Temporary surface and open pit			
	Underground (activities above)			
	Underground (activities under)			
	Recycling:			
	Large recycling collection center			
	Recycling processing center		C	
	Research and development	P	P	P
	Stockyards			
	Transfer station		C	
	Truck terminal		C	
	Vehicle dismantling yard			
	Warehouse	C	P	P
	Warehouse and distribution		P	P
	Parking use types:			
	Parking lot/surface parking:			
	Private	C	C	C
	Public	C	C	C
	Parking structure:			
	Private	P	P	P
	Public	P	P	P



Transportation use types:				
	Aviation facilities		C	
	Railroad facilities			
	Transit shelter	P	P	P
	Transportation terminal	P	P	P
Agricultural use types:				
	Commercial greenhouse	C	P	C
	Stable, commercial			
Miscellaneous use types:				
	Broadcasting tower	C	C	C
CMRS facilities:				
	Nonstealth freestanding facility	C	C	C
	Roof/building mount	P	P	P
	Roof/building mount which exceeds height limit	C	C	C
	Stealth freestanding facility	P	P	P
	Landfill (putrescible and nonputrescible)			

4. Design Guidelines: Development within the North Nevada Avenue Overlay shall follow the adopted design guidelines.

5. Nonconforming Uses: Nonconforming uses may be created which are subject to the nonconforming use rights and restrictions as established by this Code. (Ord. 18-11)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) Square footage calculation is based upon "gross floor area" which is defined as the total horizontal area of the floors of a building measured from the exterior walls or from the centerline of a wall separating 2 buildings, but not including interior parking spaces and maneuvering areas or any space where the floor to ceiling height is less than 6 feet.

[Footnote 2:](#) Square footage calculation is based upon "gross floor area" which is defined as the total horizontal area of the floors of a building measured from the exterior walls or from the centerline of a wall separating 2 buildings, but not including interior parking spaces and maneuvering areas or any space where the floor to ceiling height is less than 6 feet.

Footnote 3: Square footage calculation is based upon "gross floor area" which is defined as the total horizontal area of the floors of a building measured from the exterior walls or from the centerline of a wall separating 2 buildings, but not including interior parking spaces and maneuvering areas or any space where the floor to ceiling height is less than 6 feet.

## **PART 6 PLANNED UNIT DEVELOPMENT DISTRICTS**



**7.3.601: PURPOSE:**

**7.3.602: REQUIREMENTS:**

**7.3.603: ESTABLISHMENT AND DEVELOPMENT OF A PUD ZONE:**

**7.3.604: ESTABLISHMENT OF THE LAND USE TYPES, MIX AND INTENSITY OF LAND USES:**

**7.3.605: REVIEW CRITERIA FOR PUD CONCEPT PLANS:**

**7.3.606: REVIEW CRITERIA FOR PUD DEVELOPMENT PLAN:**

**7.3.607: MAINTENANCE OF COMMON AREAS:**

**7.3.608: PUD CONCEPT PLAN AND PUD DEVELOPMENT PLAN AMENDMENTS:**

**7.3.609: AMENITIES IN PHASED PROJECTS:**

**7.3.610: SUBDIVISION:**

**7.3.611: WAIVER OR MODIFICATION OF SUBDIVISION CODE REQUIREMENTS:**

**7.3.601: PURPOSE:**  

- A. To implement the Comprehensive Plan of the City of Colorado Springs by promoting development that is characterized by a variety of mutually supportive and integrated residential and nonresidential land uses.
- B. To allow for a variety of residential, commercial, office and industrial land use types and encourage appropriate mixed use developments. This zone district is intended to provide the means through which land may be developed with an overall unified approach. The district encourages flexibility in design to create a better living environment, to preserve the unique features of the site and to provide public services in a more economic manner.
- C. To encourage flexibility, innovation of design and a variety of development types that will improve the quality of physical development over that normally achieved through the application of the City's standard single use zones.
- D. To provide a clear and reasonable plan for the phased development and completion of proposed development, consistent with the Comprehensive Plan for the City of Colorado Springs. (Ord. 03-110; Ord. 03-190)

**7.3.602: REQUIREMENTS:**  

The land use types and mix, intensity and density of the development are defined by and through the establishment of the PUD Zone District. Specifically allowed residential and nonresidential land uses will be determined by the PUD concept plan or PUD development plan. Development standards including signage are determined by the PUD concept plan, or the PUD development plan. (Ord. 03-110; Ord. 03-190; Ord. 09-70; Ord. 12-68)

### **7.3.603: ESTABLISHMENT AND DEVELOPMENT OF A PUD ZONE:**

- A. A PUD Zone District may be established upon any tract of land held under a single ownership or under unified control, provided the application for the establishment of the zone district is accompanied by a PUD concept plan or PUD development plan covering the entire zone district which conforms to the provisions of this part.
  
- B. An approved PUD development plan is required before any building permits may be issued within a PUD Zone District. The PUD development plan may be for all or a portion of the entire district. The review criteria for approval of the PUD concept plan and approval of a PUD development plan are intended to be flexible to allow for innovative, efficient, and compatible land uses. (Ord. 03-110; Ord. 12-68)

### **7.3.604: ESTABLISHMENT OF THE LAND USE TYPES, MIX AND INTENSITY OF LAND USES:**

The land use types and mix, the land use intensity (maximum gross residential density and maximum square footage for nonresidential land uses and the maximum building heights) shall be established by the PUD Zone Ordinance. (Ord. 03-110; Ord. 09-70)

### **7.3.605: REVIEW CRITERIA FOR PUD CONCEPT PLANS:**

Substantial compliance with the criteria is necessary for the approval of the PUD concept plan. The Manager may determine that certain criteria are not applicable based on the characteristics of the individual project. PUD concept plans shall be reviewed based on the following review criteria:

- A. Is the proposed development pattern consistent with the Comprehensive Plan and all applicable elements of the Comprehensive Plan (including the intermodal transportation plan and the parks, recreation and trails master plan)?
  
- B. Are the proposed uses consistent with the Comprehensive Plan, as amended?
  
- C. Is the proposed development consistent with any City approved master plan that applies to the site?
  
- D. Is the proposed development consistent with the intent and purposes of this Zoning Code?

- E. Does the development pattern proposed within the PUD concept plan promote the stabilization and preservation of the existing or planned land uses in adjacent areas and surrounding residential neighborhoods?
- F. Does the development pattern proposed within the PUD concept plan provide an appropriate transition or buffering between uses of differing intensities both on site and off site?
- G. Does the nonresidential development pattern proposed within the PUD concept plan promote integrated activity centers and avoid linear configurations along roadways?
- H. Are the permitted uses, bulk requirements and required landscaping appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community?
- I. Does the PUD concept plan provide adequate mitigation for any potentially detrimental use to use relationships (e.g., commercial use adjacent to single-family homes)?
- J. Does the PUD concept plan accommodate automobile, pedestrian, bicycle and transit modes of transportation as appropriate, taking into consideration the development's primary function, scale, size and location?
- K. Does the PUD concept plan include a logical hierarchy of perimeter and internal arterial, collector and local streets that will disperse development generated vehicular traffic to a variety of access points and ways, reduce through traffic in adjacent residential neighborhoods and improve resident access to jobs, transit, shopping and recreation?
- L. Will streets and drives within the project area be connected to streets outside the project area in a way that minimizes significant through traffic impacts on adjacent residential neighborhoods, but still improves connectivity, mobility choices and access to jobs, shopping and recreation?
- M. Does the PUD concept plan provide safe and convenient vehicle and pedestrian connections between uses located within the zone district, and to uses located adjacent to the zone district or development?
- N. Will adequately sized parking areas be located to provide safe and convenient access, to avoid excessive parking ratios and avoid excessive expanses of pavement?
- O. Are open spaces integrated into the PUD concept plan to serve both as amenities to residents/users and as a means for alternative transportation modes, such as walking and biking?

P. Will the proposed development overburden the capacities of existing or planned streets, utilities and other public facilities?

Q. Are the areas with unique or significant natural features preserved and incorporated into the design of the project? (Ord. 03-110; Ord. 03-190; Ord. 09-70; Ord. 09-80; Ord. 12-68; Ord. 19-3)

### **7.3.606: REVIEW CRITERIA FOR PUD DEVELOPMENT PLAN:**

A PUD development plan for land within a PUD Zone shall be approved if it substantially conforms to the approved PUD concept plan and the PUD development plan review criteria listed below. An application for a development plan shall be submitted in accord with requirements outlined in article 5, parts 2 and 5 of this chapter. Unless otherwise specified by a development agreement, the project shall be vested by the PUD development plan in accord with section [7.9.101](#) and subsection [7.5.504C2](#) of this chapter.

A. Consistency With City Plans: Is the proposed development consistent with the Comprehensive Plan or any City approved master plan that applies to the site?

B. Consistency With Zoning Code: Is the proposed development consistent with the intent and purposes of this Zoning Code?

C. Compatibility Of The Site Design With The Surrounding Area:

1. Does the circulation plan minimize traffic impact on the adjacent neighborhood?
2. Do the design elements reduce the impact of the project's density/intensity?
3. Is placement of buildings compatible with the surrounding area?
4. Are landscaping and fences/walls provided to buffer adjoining properties from undesirable negative influences that may be created by the proposed development?
5. Are residential units buffered from arterial traffic by the provision of adequate setbacks, grade separation, walls, landscaping and building orientation?

D. Traffic Circulation:

1. Is the circulation system designed to be safe and functional and encourage both on and off site connectivity?
2. Will the streets and drives provide logical, safe and convenient vehicular access to the facilities within the project?
3. Will adequately sized parking areas be located to provide safe and convenient access, avoid excessive parking ratios and avoid expanses of pavement?

4. Are access and movement of handicapped persons and parking of vehicles for the handicapped appropriately accommodated in the project design?

5. As appropriate, are provisions for transit incorporated?

E. Overburdening Of Public Facilities: Will the proposed development overburden the capacities of existing and planned streets, utilities, parks, and other public facilities?

F. Privacy: Is privacy provided, where appropriate, for residential units by means of staggered setbacks, courtyards, private patios, grade separation, landscaping, building orientation or other means?

G. Pedestrian Circulation:

1. Are pedestrian facilities provided, particularly those giving access to open space and recreation facilities?

2. Will pedestrian walkways be functionally separated from vehicularways and located in areas that are not used by motor vehicles?

H. Landscaping:

1. Does the landscape design comply with the City's landscape code and the City's landscape policy manual?

2. The use of native vegetation or drought resistant species including grasses is encouraged. The City's landscape policy manual or the Community Development Department's landscape architect can be consulted for assistance.

I. Open Space:

1. Residential Area:

a. Open Space: The provision of adequate open space shall be required to provide light, air and privacy; to buffer adjacent properties; and to provide active and passive recreation opportunities. All residential units shall include well designed private outdoor living space featuring adequate light, air and privacy where appropriate. Common open space may be used to reduce the park dedication requirements if the open space provides enough area and recreational facilities to reduce the residents' need for neighborhood parks. Recreational facilities shall reflect the needs of the type of residents and proximity to public facilities.

b. Natural Features: Significant and unique natural features, such as trees, drainage channels, slopes, and rock outcroppings, should be preserved and incorporated into the design of the open space. The Parks and Recreation Advisory Board shall have the discretion to grant park land credit for open space within a PUD development that preserves significant natural features and meets all other criteria for granting park land credit.

2. Nonresidential And Mixed Use; Natural Features: The significant natural features of the site, such as trees, drainage channels, slopes, rock outcroppings, etc., should be preserved and are to be incorporated into the design of the open space.

J. Mobile Home Parks: Does a proposed mobile home park meet the minimum standards set forth in the mobile home park development standards table in subsection [7.3.104B](#) of this article? (Ord. 03-110; Ord. 03-190; Ord. 09-70; Ord. 09-80; Ord. 12-68)

### **7.3.607: MAINTENANCE OF COMMON AREAS:**

The provision of a property owners' association or other acceptable maintenance entity is required for maintaining common areas, project landscape, parking, drive aisles, fencing and building exteriors, and emergency access points. Agreements or covenants shall provide suitable guarantees for maintenance. (Ord. 03-110; Ord. 09-70)

### **7.3.608: PUD CONCEPT PLAN AND PUD DEVELOPMENT PLAN AMENDMENTS:**



The Manager shall make a determination of whether a major or minor amendment to an approved PUD concept plan or PUD development plan is necessary. Amendments regarding changes to the PUD land use types (mix and intensity) are processed in accord with article 5, part 6 of this chapter. All other amendments to PUD concept plans or PUD development plans shall be processed administratively in accord with the provisions of subsection [7.5.503C](#) of this chapter. (Ord. 03-110; Ord. 09-70; Ord. 12-68)

### **7.3.609: AMENITIES IN PHASED PROJECTS:**

Open space, recreational facilities or other amenities ("collective facilities") to be provided shall require financial assurance. Suitable assurances may be in the form of a letter of credit, escrow or recorded agreements by the mortgage holder or owner guaranteeing the development of the collective facilities. Financial securities shall not be required if:

A. Acceptable provisions are included within the development agreement that guarantee the provision of these amenities in a timely manner.

B. Amenities are included in each construction phase of the project adequate to serve the residents and/or users within the phase. (Ord. 03-110; Ord. 09-70)

### **7.3.610: SUBDIVISION:**

No subdivision of the PUD district shall be approved nor any building permits issued until a PUD development plan is approved for the entire area of land proposed to be included within the subdivision plat. This does not preclude the platting of the entire PUD zone district as one lot prior to the approval of a PUD development plan. The PUD development plan may be used in lieu of a preliminary plat, if the PUD development plan includes all of the information required for both the PUD development plan and the preliminary plat. (Ord. 03-110; Ord. 09-70; Ord. 12-68)

### **7.3.611: WAIVER OR MODIFICATION OF SUBDIVISION CODE REQUIREMENTS:**



When the situation so warrants, the following requirements of the Subdivision Code may be waived or modified by the Planning Commission or City Council based on the PUD concept plan or the PUD development plan: width and right of way of streets, access and alleyways, location of utility easements or lines, requirements for or placement of curb, gutter or sidewalks, requirement for streetlights and storm drainage treatment. If it would result in at least one of the following benefits, and Planning Commission or City Council find that the proposal provides for the general health, safety, and welfare of the citizens, a waiver or modification may be approved:

- A. Preservation of natural features;
- B. Provision of a more livable environment, such as the installment of street furniture, decorative street lighting or decorative paving materials;
- C. Provision of a more efficient pedestrian system;
- D. Provision of additional open space; and/or
- E. Provision of other public amenities not otherwise required by City standards.

If a waiver or modification based on a PUD concept plan or PUD development plan has been approved, the waiver or modification shall also apply at time of platting. (Ord. 03-110; Ord. 09-70; Ord. 12-68)

## **PART 7 MIXED USE ZONE DISTRICTS**

**7.3.701: MIXED USE PURPOSE:**

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**7.3.701: MIXED USE PURPOSE:**  

The primary purposes of this part are to:

- A. Provide appropriate areas for and facilitate quality mixed use development in activity centers that are consistent with the Comprehensive Plan's land use and transportation goals, objectives, policies and strategies;
- B. Accommodate intensities and patterns of development that can support multiple modes of transportation, including public transit and walking;
- C. Group and link places used for living, working, shopping, schooling, and recreating, thereby reducing vehicle trips, relieving traffic congestion and improving air quality in the City;
- D. Provide a variety of residential housing types and densities to assure activity in the district to support a mix of uses and enhance the housing choices of City residents; and
- E. Integrate new mixed use development with its surroundings by encouraging connections for pedestrians and vehicles and by assuring sensitive, compatible use, scale, and operational transitions to neighboring uses. (Ord. 09-74)

**7.3.702: MIXED USE DEFINITIONS:**  

This section is intended to provide supplemental mixed use definitions to the basic definitions found in section [7.2.201](#) of this chapter. The mixed use definitions are unique and specific to mixed use development.

**ACTIVITY CENTER:** A general term for an MU development that integrates a range of complementary and mutually supporting uses and activities. Typically, an activity center includes a predominant type of use, such as commercial or employment related, that is then supported by a mix of one or more other uses, such as residential, civic, or institutional. Activity centers may vary in size, intensity, scale, and their mix of supportive uses, depending on their purpose, location, and context. In each case, activity centers are intended to be mixed use and pedestrian oriented with good connections and transitions to surrounding areas. Residences are a component of all activity centers, whether on site or immediately adjacent. The activity center should support a range of housing types and densities within the individual neighborhoods. There are three (3) distinct types of activity centers:

**Commercial Activity Center:** Commercial centers are activity centers that vary in size and service area. Smaller commercial centers typically serve the daily needs of multiple residential neighborhoods and are anchored by a grocery store. Larger commercial centers typically accommodate large retail establishments, provide major durable goods shopping, and serve a number of residential areas over a significant portion of the City. Commercial centers contain a mix of supporting uses, including multi-family dwellings, office, entertainment and retail uses, medical offices and clinics, and civic uses. The mix enables combined trip destinations and supports more effective transit service, and provides viable pedestrian and bicycle access and circulation.

**Neighborhood Activity Center:** Neighborhood centers are small, low impact, limited activity centers intended to primarily service the needs of immediately adjacent neighborhoods, in a service area typically ranging from one-half (1/2) to two (2) miles. Principal uses contribute to the efficient functioning and attractiveness of neighborhoods, relate to and accommodate walk-up pedestrian traffic, and do not generate noxious fumes, excessive light or noise. The mix of uses may include neighborhood serving retail, convenience or specialty food sales, restaurants, dwelling units above the first floor, live/work units, single-family attached dwellings, general offices, or medical offices.

**Regional/Employment Activity Center:** A regional/employment center is a large (50 or more acres), intensive activity center that combines the uses of commercial centers and employment centers and that serves the City and region as a whole. A regional activity center may be a regional shopping mall, corporate office headquarters, or a major concentration of employment supported by a mix of uses that meets the needs of employees, visitors and residents. Primary uses include major commercial and/or employment uses, supported by a full range and mix of uses, including large and small retail establishments, general offices and office complexes, governmental and civic uses, business services, research and development, major service uses, restaurants, lodging, childcare, personal services, and higher density housing, as well as warehousing and industrial uses or educational facilities. These centers are generally located at the intersection of or along major arterials, or in close proximity to limited access freeways and interstate highways.

**CONTEXTUAL AREA:** A mapped part of the City, as established in section [7.3.706](#) of this part that is characterized by a general similarity of development age, street types and patterns, and block sizes. There are two (2) contextual areas in the City: a) the "older/established" contextual area, and b) the "newer/developing" contextual area.

**ENHANCED DRIVE AISLE:** An element of a parking area in an MU zone district intended to provide access to parking areas, and connections for vehicles and pedestrians. It serves to define a block structure in parking areas.

**LARGE FORMAT BUILDING:** A building in an MU zone district characterized by a footprint equal to or greater than one hundred sixty thousand (160,000) square feet, or by a continuous building frontage equal to or greater than four hundred (400) linear feet.

**MIXED USE DEVELOPMENT:** Development that combines and integrates two (2) or more principal land uses, such as commercial, office, civic, industrial, or residential uses with a strong pedestrian orientation. The mix of uses may be combined in a vertical MU building(s) or combined in separate buildings located on one property and/or under unified control.

**MIXED USE ZONE DISTRICT:** Any or all of the following zone districts: MU-NC, MU-CC, MU-R/EC. (Ord. 09-74)

**7.3.703: MIXED USE ZONE DISTRICT ESTABLISHMENT:**  

A. Mixed Use Concept Plan: The application to establish an MU zone district shall include an MU concept plan that describes and illustrates, in written and graphic format, the intended locations and quantities of proposed uses, the layout of proposed vehicle and pedestrian access and circulation systems, provision of transit facilities, and areas designated to meet requirements for open space, parking, on site amenities, utilities and landscaping. It shall include statements or conceptual plans describing how signage and lighting will be designed in a unified and integrated manner on site. In addition, the MU concept plan shall indicate how the proposed uses will relate to the surrounding properties. The submittal of a concept statement in lieu of an MU concept plan shall not be permitted. The requirement for an MU concept plan is waived if a complete development plan for the entire zone district is submitted.

1. Review Criteria: In addition to the review criteria for all concept plans set forth in subsection [7.5.501D](#) of this chapter, the following review criteria shall apply to MU Zone concept plans:

a. General:

- (1) Is the proposed MU concept plan consistent with the Comprehensive Plan and all applicable elements of the Comprehensive Plan?
- (2) Is the proposed MU concept plan consistent with any City approved master plan that applies to the site?

b. Mix Of Uses:

- (1) Is the mix and location of principal uses consistent with the intent and standards of the applicable MU Zone District?
- (2) Is the residential use well integrated with other uses, and do the proposed housing types and densities assure activity and support the mix of uses in the development?
- (3) Do open spaces serve as amenities and support transportation modes such as walking and bicycling?
- (4) Are build-to lines along perimeter streets located to support a pedestrian oriented streetscape?

c. Access And Circulation Systems:

- (1) Do vehicular and pedestrian ways provide logical and convenient connections between proposed uses and to existing or proposed uses located adjacent to the proposed MU center, and do they establish a high level of connectivity?
- (2) Does the hierarchy of perimeter and internal streets disperse development generated vehicular traffic to a variety of access points, discourage through traffic in adjacent residential neighborhoods, and provide neighborhood access to on site uses?
- (3) Are existing or proposed transit routes incorporated into the MU center through the location of appropriate transit facilities, and related pedestrian improvements?

d. Parking: Are automobile and bicycle parking areas located to support principal uses, minimize potential negative impacts on adjacent properties, discourage an exclusive automobile orientation and provide a safe environment for pedestrians, motorists, cyclists and transit users?

e. General Utility Infrastructure:

(1) Do the general utility layout, proposed rights-of-way, utility corridors and easements show appropriate points of connection for water, wastewater, natural gas, electric and telecommunication utilities?

(2) Are the capacity, age and condition of utility infrastructure sufficient to meet the needs of the MU center at build out, and if not, have proper relocation, replacement or other modifications been shown?

f. On Site Amenities And Landscaping:

(1) Do the general location and type of on site amenities provide desirable open space, create an inviting image, enhance the pedestrian environment and offer spaces for people to gather, interact, and rest?

(2) Do landscaping themes that relate to individual streetscapes, internal landscaping, parking lot landscaping and buffers contribute ecologically and aesthetically to the character of the MU center and support a pedestrian friendly environment?

(3) Are areas of unique or significant natural features integrated into the MU center?

g. Signage And Lighting Systems:

(1) Does the lighting system unify the development, is it compatible with and does it complement the surrounding neighborhoods?

(2) Are signage themes designed to unify the MU center?

h. Consideration Of Context And Transitions To Adjacent Areas: Do the proposed transitions ease the progression from more intense to less intense land uses and building masses and mitigate visual impact, uses or activities that could be reasonably regarded as nuisances by neighbors?

2. Mixed Use Concept Plan Amendments: In addition to the review criteria for all concept plans set forth in subsection [7.5.501D](#) of this chapter, the following review criteria shall apply to MU Zone concept plan amendments:

a. MU concept plan amendments request shall be submitted when:

(1) There is a proposed change in the general location of an approved principal use, or

(2) There is a proposed change in the amount, type or density of residential uses, or

(3) There is a proposed change in pedestrian or vehicular circulation systems, rights-of-way, utility corridors or easements, or

- (4) There is a proposed change of use that would change the location or amount of required parking, or
- (5) There is a proposed change in uses that would change trip generation calculations, or
- (6) There is a proposed change to an existing phasing plan.

b. An MU concept plan amendment request shall include maps of the entire MU Zone District, and shall update all development information in written and graphic format since adoption of the MU concept plan or the most recent amendment.

### 3. Expiration Of An MU Concept Plan:

a. Conditions: An MU concept plan shall expire under any of the following circumstances:

- (1) Six (6) years have occurred since approval of the MU concept plan and no development plan that implements the MU concept plan has been approved; or
- (2) Six (6) years have occurred since approval of a development plan that implements the MU concept plan.

b. Extension Of An MU Concept Plan: A one year extension may be issued by the Manager, provided that a written request has been received prior to the expiration of the MU concept plan, and the Manager has determined that no major changes in the City's development standards, or changes in the development pattern of the surrounding properties, has occurred.

B. Phasing Plan: An application to establish an MU-CC or an MU-R/EC Zone District shall include a phasing plan that describes and illustrates, in written and graphic format, implementation of the MU concept plan when development is anticipated to occur in multiple phases over a number of years. A phasing plan shall be a working document used to identify the sequence, timing and responsibility for construction of necessary utilities and infrastructure. The requirement for a phasing plan is waived if a complete development plan for the entire zone district is submitted.

1. The phasing plan shall show how the project is to be incrementally developed.
2. The phasing plan shall show the phasing of principal uses, transition tools, pedestrian improvements, streets, utilities, drainage improvements, building areas, parking, and interim uses.
3. The phasing plan shall relate the development phases to infrastructure requirements for each phase.
4. If a phased project proposes a disproportionate share of the mix of uses, open space, landscaping, recreational facilities or other common amenities to future phases, assurances are required so that if the future phases are not developed, a sufficient mix of uses, open space, landscaping, recreational facilities or common amenities shall be provided for the phases actually developed.
  - a. Assurances shall be in the form of a letter of credit, escrow or recorded agreement by the mortgage holder, or if none, by the property owner guaranteeing the development of common amenities.
  - b. Assurances shall be submitted before a phasing plan for the MU Zone District is approved.
5. An amendment to a phasing plan shall be processed as an amendment to a concept plan.

6. A phased project in an MU Zone District shall comply with the mix of use requirements that are applicable to each phase.

C. Development Plan: Before building permits may be issued in an MU Zone District, a development plan that implements the approved MU concept plan, if any, and this Zoning Code must be approved. Diversification of ownership shall not be considered a valid basis or justification for a variance or an amendment to a previously approved development plan. All development in MU Zone Districts shall be in conformance with the approved development plan.

1. Review Criteria: In addition to the review criteria for all development plans set forth in article 5, part 5 of this chapter, the following review criteria shall apply to development plans in MU Zone Districts:

- a. Is the proposed development plan consistent with the Comprehensive Plan and all applicable elements of the Comprehensive Plan?
- b. Is the proposed development plan consistent with the intent and purposes of this Zoning Code?
- c. Does the proposed development plan implement the concept plan, if any?
- d. Does the proposed development plan implement the phasing plan, if any?
- e. Does the proposed development plan demonstrate how the applicable MU Zone District purposes, requirements, and standards as set forth in this part are met?
- f. Does the proposed development plan demonstrate how the applicable MU Zone District lighting standards are met?
- g. Does the proposed development plan demonstrate how the applicable MU Zone District parking standards are met?
- h. Does the proposed development plan demonstrate how the applicable bicycle parking and facilities standards as set forth in section [7.3.716](#) of this part are met?
- i. Does the proposed development plan demonstrate how the applicable MU Zone District landscaping standards as set forth in article 4, part 3 of this chapter are met?
- j. Does the proposed development plan demonstrate how the following applicable MU site development standards, as set forth in this part, are met?
  - (1) Pedestrian and bicycle standards.
  - (2) Transit standards.
  - (3) Vehicle access and circulation standards.
  - (4) On site community amenities standards.
  - (5) Transition and operational standards.

(6) Site development and design standards.

2. Mixed Use Development Plan Amendments: In addition to the review criteria for all development plans set forth in subsection [7.5.502E](#) of this chapter, the following review criteria shall apply to MU Zone development plan amendments:

a. MU development plan amendments request shall be submitted when:

(1) There is a proposed change in the general location of an approved principal use, or

(2) There is a proposed change in the amount, type or density of residential uses, or

(3) There is a proposed change in pedestrian or vehicular circulation systems, rights-of-way, utility corridors or easements, or

(4) There is a proposed change of use that would change the location or amount of required parking, or

(5) There is a proposed change in uses that would change trip generation calculations, or

(6) There is a proposed change to an existing phasing plan.

b. An MU development plan amendment request shall update all development information in written and graphic format since adoption of the MU development plan or the most recent amendment.

3. Expiration Of An MU Development Plan:

a. Conditions: An MU development plan shall expire after six (6) years have occurred since approval of the MU development plan and no building permits have been issued or the use not commenced.

b. Extension Of An MU Development Plan: A one year extension may be issued by the Manager provided that a written request has been received prior to the expiration of the MU development plan and the Manager has determined that no major changes in the City's development standards or changes in the development pattern of the surrounding properties, has occurred. (Ord. 09-74; Ord. 19-3)

### **7.3.704: MIXED USE INDIVIDUAL ZONE DISTRICTS PURPOSE AND SPECIFIC REQUIREMENTS:**

A. MU-NC - Neighborhood Center: This district is intended to accommodate development of neighborhood centers as described in section [7.3.702](#) of this part. Neighborhood centers are intended to be small, low impact, limited use centers. They are typically pedestrian and bicycle oriented, with limited automobile access and parking. Neighborhood centers are generally well integrated into the fabric of the surrounding residential neighborhood. Neighborhood centers are intended to serve as an amenity to residents of the immediate neighborhood and support a variety of uses.

Neighborhood centers should generally include a limited range of convenience goods and services in keeping with the character and scale of the surrounding neighborhood. Primary uses generally include a limited mix of small scale neighborhood serving retail, office, service, civic and attached residential uses. Neighborhood centers may also include establishments such as

medical offices, beauty shops and restaurants. Auto related uses or other uses that produce noxious fumes or excessive light and noise are prohibited within a neighborhood center. Appropriate residential types may include second floor units located above retail uses, and townhouses. Drive-up and drive-through uses are excluded.

1. Location: The location of a proposed neighborhood center MU-NC Zone District shall be designed to take advantage of daily activity patterns, such as at the corner of a residential collector street, at the entrance to a neighborhood, or in conjunction with a park, school, civic use, or public space. To serve its purposes, the MU-NC District should be sited at the edges of a residential neighborhood, at a collector and arterial street intersection or a collector and local street intersection. MU-NC Zone Districts should typically be located at least one mile apart from the same type of activity center or MU Zone District.
2. Use And Development Standards: Uses allowed in this zone are listed in the table in section [7.3.705](#) of this part. Development (dimensional) standards are listed in the table in section [7.3.707](#) of this part. Uses that are subject to additional standards are listed and described in section [7.3.708](#) of this part. In addition, development is subject to all applicable site development standards stated in [article 4 of this chapter](#).

- B. MU-CC - Commercial Center: This district is intended to accommodate development of commercial centers as described in section [7.3.702](#) of this part. Commercial centers are activity centers that, depending on their size and service area, may serve several neighborhoods within a surrounding residential area with a mix of retail, office, service, civic and attached residential uses, or that can accommodate large retail establishments and serve a number of residential areas and neighborhoods over a significant portion of the City.

Small commercial centers range between ten (10) and thirty (30) acres in size. They are typically anchored by a grocery store, with supporting establishments including, but not limited to, variety, drug and hardware stores, and establishments such as medical offices, beauty shops and restaurants. Secondary uses include other supporting, neighborhood oriented uses such as schools, small offices, daycare, parks and civic facilities, as well as residential uses. Appropriate residential types may include second floor units located above retail uses, townhouses, and small lot, single-family detached homes. The integration of residential uses helps to assure extended hours of activity within the district and support a mix of uses. The district balances automobile access from arterial streets with transit orientation, pedestrian and bicycle access and circulation, and provides good transitions and connectivity with the surrounding neighborhoods.

Large commercial centers are typically greater than thirty (30) acres in size and include a mix of commercial with supporting office, service, medical, residential and civic uses. Uses generally include large scale retail uses that provide major durable goods shopping, restaurants and services to multiple residential areas. A variety of integrated uses should be provided, including retail, concentrated office, research and development, institutional, entertainment and civic uses. Supporting uses may include residential, service, office, entertainment, eating and drinking establishments, and medical uses. Higher density residential is also a critical component of the large commercial center mix in order to assure extended hours of activity within the district and provide support for a mix of uses. Activities and uses should be concentrated and mixed in order to create more diversity and synergy between uses, combine destinations, support more effective transit service, and provide viable pedestrian and bicycle access and circulation. Mobility choices should be integrated by providing transit, pedestrian and bicycle connectivity within the center as well as to adjoining areas. Aging single or limited use local commercial centers and corridors should be redeveloped as MU commercial centers under this zone.



1. Location: Small MU-CC zone districts shall be located at a minimum of one mile apart and distributed to serve multiple neighborhoods. Their location should balance automobile access from arterial and collector streets with transit orientation, pedestrian access and circulation, and have good connections with the surrounding neighborhoods. Large MU-CC districts shall be located to serve significant subareas of the City, and to allow vehicle and pedestrian connectivity to surrounding residential areas.
2. Use And Development Standards: Uses allowed in this zone are listed in the table in section [7.3.705](#) of this part. Development (dimensional) standards are listed in the table in section [7.3.707](#) of this part. Uses that are subject to additional standards are listed and described in section [7.3.708](#) of this part. In addition, development is subject to all applicable site development standards stated in [article 4 of this chapter](#).

C. MU-R/EC - Regional/Employment Center: This district is intended to accommodate development of regional/employment centers as described in section [7.3.702](#) of this part. The regional/employment district is intended to provide large, intensive activity centers that combine the uses of commercial centers and employment centers and serve the City and region as a whole. The MU-R/EC district should be utilized for significant and mutually supportive combinations of commercial and employment activities. Because of their size, both sets of activities function as regional centers in terms of market for retail and employment opportunities.

Higher density residential use is also a critical component of a regional/employment center in order to assure extended hours of activity within the district and provide support for a mix of uses.

Uses should include a mix of commercial and employment uses integrated in a single, mutually supportive regional destination. These uses may range from regional mall anchor stores, government offices, and corporate headquarters to special retail and higher density housing. They may also include research and development uses, major service and office center complexes, in addition to warehousing and industrial uses and major educational facilities. Supporting uses may include restaurants, hotels, entertainment, childcare, civic activities, business services, lodging for business travelers, and multi-family residential uses if part of an overall planned development.

Activities and uses should be concentrated and mixed in order to create more diversity and synergy among uses, combine destinations, support more effective transit service, and provide viable pedestrian and bicycle access and circulation. Mobility choices should be integrated by providing transit, pedestrian and bicycle connectivity within the center as well as to the adjoining areas.

1. Location: An MU-R/EC zone district should typically be located at the intersection of two (2) major arterial roadways, along major arterial roads, along the City's planned transit system, near other major regional transit terminals, or in close proximity to limited access freeways and interstate highways. Concentrated employment activities should be located within MU zone districts whenever possible. Sites with direct access to existing or planned major transportation facilities and compatibility with adjacent land uses are appropriate for the MU-R/EC zone district.
2. Use And Development Standards: Uses allowed in this zone are listed in the table in section [7.3.705](#) of this part. Development (dimensional) standards are listed in the table in section [7.3.707](#) of this part. Uses, which are subject to additional standards, are listed and described in section [7.3.708](#) of this part. In addition, development is subject to all applicable site development standards stated in this Zoning Code.

D. Mixed Use Development Design Manual: The Community Development Department is authorized to adopt an MU development design manual containing guidelines and illustrations which provide information on how best to comply with, and design MU developments according to, the purposes and standards found in this part and in [article 4 of this chapter](#). (Ord. 09-74; Ord. 09-80)

**7.3.705: MIXED USE PERMITTED, CONDITIONAL AND ACCESSORY USES:**  

The following table shows the land uses allowed in the MU zone districts. Principal permitted uses are shown as P, conditional uses are shown as C, and accessory uses are shown as A.

If a listed use is not marked with a P, C, or A in a particular zone district, that use is prohibited in such zone unless otherwise allowed by the City through a use variance (section [7.5.803](#) of this chapter).

Any similar use not listed in the table may be allowed as a principal, conditional, or accessory use in an MU zone district where similar uses are allowed in conformance with section [7.2.108](#) of this chapter. Similar use determinations shall be made by the Manager in writing.

The uses allowed in these districts are subject to the standards in this part, the applicable human service establishment standards in this article, the applicable parking, landscaping, sign, and other general site development standards in [article 4 of this chapter](#), and the applicable administrative and procedural regulations in [article 5 of this chapter](#).

A. Required Mix Of Uses: To ensure a balance between housing, retail, office, and other commercial development within the MU zone districts, the following standards shall apply:

**REQUIRED MIX OF USES**

Standard	Mixed Use Zone District			
	MU-NC	MU-CC <30 acres	MU-CC 30+ acres	MU-R/EC
Minimum number of principal use types <sup>2,3</sup>	2	3	3	3
Residential use required as part of mix?	Yes	Yes	Yes	Yes
Minimum percentage total gross districtwide acreage for residential use <sup>1,2</sup>	n/a	n/a	10%	10%
Maximum percentage total gross districtwide acreage occupied by a single use type	n/a	80%	80%	80%

Notes:

1. Credit For Residential Units In A Vertical MU Building: As applicable, the total acreage of a site developed with a vertical MU building containing multi-family dwelling units above the first floor shall be credited toward meeting this minimum 10 percent standard.
2. Substitution Of Adjacent Residential Uses: As applicable, existing residential uses immediately adjacent to an MU zone district that meet the same standards for minimum density and vehicular, pedestrian and bicycle connectivity as residential uses within the zone district, and are within at least a quarter mile distance from the boundary of the zone district, shall be credited toward meeting the required residential use and the minimum 10 percent standard.
3. Residential Use Type Required In All Zone Districts: Residential is a required use type in all MU zone districts. Other principal use types are listed in subsection B of this section.

B. Mix Of Uses Required In Phased Developments: Subject to the overall mix of use ratios established under subsection [7.3.703A](#) of this part, phased development in an MU-CC or MU-R/EC zone district shall include a mix of approved principal uses either in each phase, so that no one type of use is developed exclusively in the district at any one time, or in successive phases, so that the required mix is developed with the sequential completion of successive phases. If the first phase includes only one of the proposed mix of uses, then the completion of one or more subsequent phases with another of the proposed mix of uses must occur within six (6) years from the approval date of the original concept plan. For purposes of this provision, the land area of a site or parcel developed with a vertical MU building containing two (2) nonresidential uses shall be allocated proportionately according to the square footage of the different nonresidential uses contained in the building. For residential uses, the total acreage of the site developed in a vertical MU building containing multi-family dwellings above the first floor shall be credited toward meeting the residential use requirement.

The following table lists the permitted, conditional and accessory uses in the MU zone districts. Those uses denoted by an asterisk (\*) are subject to the additional standards for specific land uses found in section [7.3.708](#) of this part.

PERMITTED, CONDITIONAL AND ACCESSORY USES  
MIXED USE ZONE DISTRICTS

Use Types	MU-NC	MU-CC	MU-R/EC
Residential use types:			
Accessory dwelling unit	A*	A*	A*
Dormitories	P	P	P
Duplex on an individual lot	P	P	P
Human service establishments:			
Detoxification center			
Domestic violence safe house	P	P	P

	Drug and alcohol treatment facility	C	P	P
	Family care home	P	P	P
	Family support residence	C	P	P
	Hospice	C	P	P
	Human service facility	C	P	P
	Human service home	P	P	P
	Human service residence	C	P	P
	Human service shelter	C	P	P
	Large family care home	C	P	P
	Residential childcare facility	C	P	P
	Live/work unit	P*	P*	P*
	Manufactured home		P	P
	Multi-family dwelling:			
	Above first floor	P	P	P
	Apartment	P	P	P
	Condominium	P	P	P
	Townhouse	P	P	P
	Retirement home	P	P	P
	Rooming house	P	P	P
	Single-family detached dwelling on individual lot		P	P
	Office use types:			
	Financial services	P	P	P
	General offices	P	P	P
	Medical offices	P	P	P
	Commercial use types:			
	Agricultural sales and services		C	C

	Automotive and equipment services:			
	Automobile rentals		C	P
	Automotive repair garage		P*	P*
	Automotive sales			C
	Automotive service		P	P
	Automotive wash		C	C
	Body and fender repair services		C*	C*
	Bar	C	P	P
	Bed and breakfast inn	P	P	P
	Building maintenance services		C	P
	Building office support services		P	P
	Business park	C	C	P
	Commercial center		P	
	Communication services	P*	P	P
	Construction sales and services:			
	Completely enclosed		P	P
	Includes outside activities		C	P
	Consumer convenience services	P*	P	P
	Consumer repair services	P*	P	P
	Exterminating services			P
	Food sales:			
	Convenience food sales	P*	P	P
	General food sales		P	P
	Specialty food sales	P*	P	P
	Funeral services		P	P
	General retail:			

	Large retail greater than 50,000 square feet		P	P
	Midsized retail greater than 5,000 square feet and less than 50,000 square feet		P	P
	Neighborhood serving retail equal to or less than 5,000 square feet	P*	P	P
	Hotel/motel		P	P
	Kennels		C	C
	Liquor sales	P*	P*	P*
	Personal improvement services	P*	P	P
	Personal services	P*	P	P
	Pet services	P*	P	P
	Pharmacy	P*	P	P
	Recreation, commercial:			
	Indoor entertainment	P*	P	P
	Indoor sports and recreation	P*	P	P
	Outdoor entertainment		P	P
	Outdoor sports and recreation		P	P
	Restaurants:			
	Drive-up or fast food/quick serve	P*	P	P
	Outdoor seating	P	P	P
	Sit down - served at table	P*	P	P
	Sexually oriented business		C	C
	Surplus sales		C	C
	Teen club/young adult club		C	C
	Veterinary service (small animals):			
	Completely enclosed structure	P*	P*	P*
	Civic use types:			

	Administrative/safety services	P*	P	P
	Club (membership, social and recreational)	P*	P	P
	Cultural services	P	P	P
	Daycare services	P	P	P
	Educational institutions:			
	Charter school		C	C
	College and university		C	C
	Nonpublic schools		C	C
	Proprietary schools	P	P	P
	Public schools		C	C
	Hospital			P
	Public assembly		P	P
	Public park and recreation (including public plazas)	P	P	P
	Religious institution	P*	C*	P
	Semipublic community recreation	P*	P	P
	Social service center	P*	C	P
	Industrial use types:			
	Custom manufacturing	P*	P	P
	General industry, light			P
	Limited general retail services			A*
	Manufacturing			
	Research and development		C	P
	Parking use types:			
	Parking lot/surface parking (as a principal use):			
	Private	A	P	P

	Public		P	P
Parking structure (as a principal use):				
	Private		P	P
	Public		P	P
Transportation use types:				
	Transit shelter	P	P	P
	Transit station	C	P	P
	Transportation terminal		P	P
Miscellaneous use types:				
CMRS facilities:				
	Broadcasting tower	C	C	C
	Nonstealth freestanding facility	C	C	C
	Roof/building mount	P	P	P
	Roof/building mount which exceeds height limit	C	C	C
	Stealth freestanding facility	P	P	P
MU transition use types		P	P	P

(Ord. 09-74; Ord. 09-80; Ord. 14-8)

**7.3.706: MIXED USE ESTABLISHMENT OF CONTEXTUAL AREAS IN CITY:**  

For the purposes of applying the MU development standards in this article and [article 4 of this chapter](#), the City hereby establishes two (2) contextual areas within the City:

- A. The "older/established" contextual area, and
- B. The "newer/developing" contextual area.





These areas are depicted on the map below. The "older/established" area is generally defined as that area of the City established prior to 1985. New development within the "older/established" contextual area is considered "infill" and "redevelopment", as defined in [article 2 of this chapter](#). The

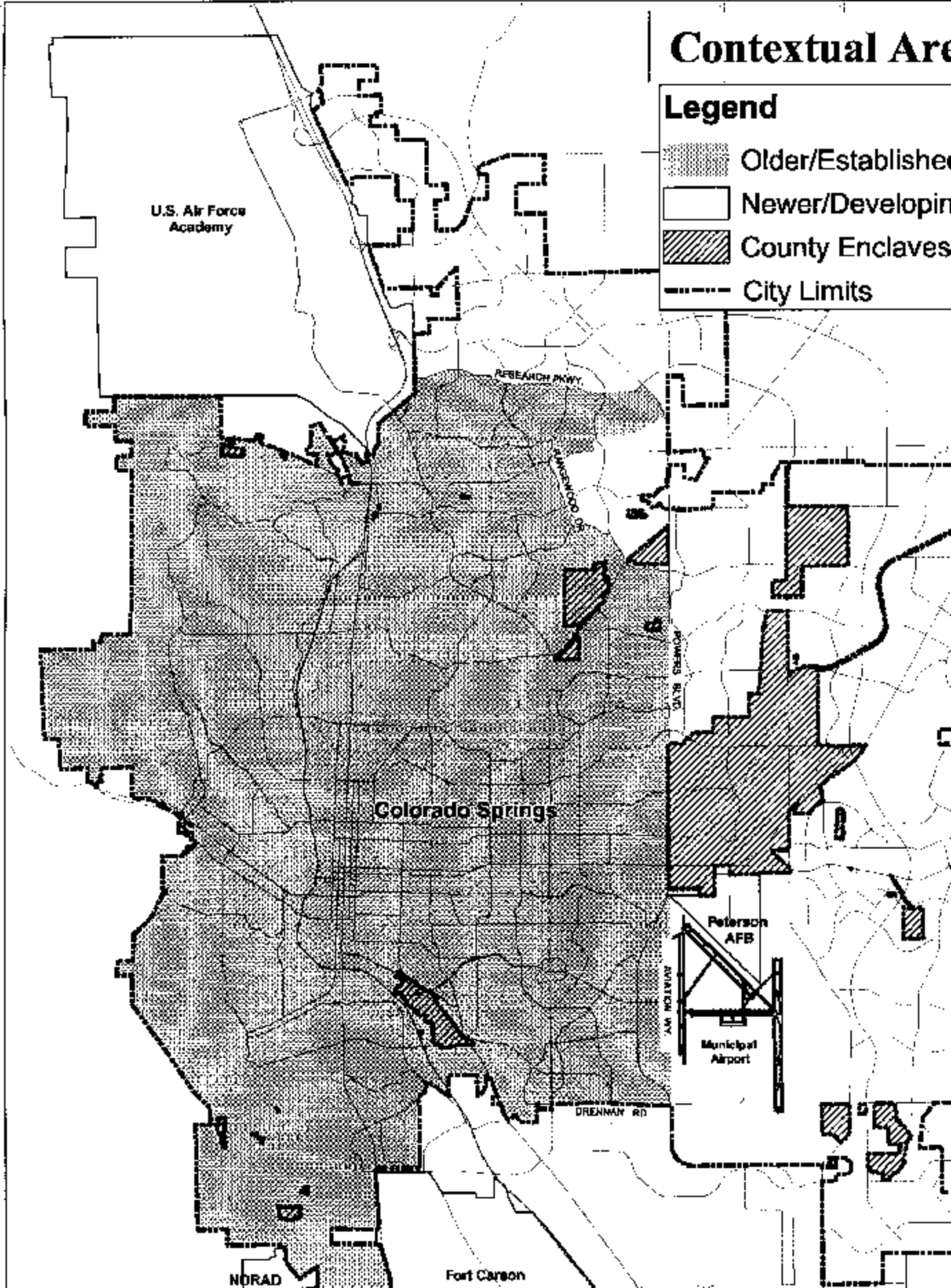


"newer/developing" contextual area is generally defined as those areas of the City established later than 1985.



# Contextual Area

## Legend

-  Older/Established
-  Newer/Developing
-  County Enclaves
-  City Limits



(Ord. 09-74)

**7.3.707: MIXED USE DEVELOPMENT (DIMENSIONAL) STANDARDS:**  

The following table lists the development standards for the MU zone districts. These standards include the minimum and maximum district size, minimum lot area, maximum building height, and applicable build-to lines. Other site development standards relating to items such as landscaping, parking, signs, fences, lighting and preservation areas are listed in [article 4 of this chapter](#) and apply to development in these zone districts.

DEVELOPMENT (DIMENSIONAL) STANDARDS - MIXED USE ZONE DISTRICTS

<b>Standards</b>	<b>MU-NC</b>	<b>MU-CC</b>	<b>MU-R/EC</b>	<b>Notes To Table/Additional Regulations</b>
District size:				
Minimum district size	None	10 acres	50 acres	
Maximum district size	10 acres	None	None	
Minimum districtwide average floor area ratio (FAR):				
Newer/developing contextual area	None	0.25	0.25	*Calculation: FAR is calculated as an average across the entire zone district - i.e., each individual building site or lot does not need to meet the minimum FAR as long as the minimum FAR is met across the entire zone district. FAR shall be calculated based on the gross land area in the district measured from adjacent internal street centerlines.

Older/established contextual area	None	0.25	0.25	<p>*Applied To Vertical Mixed Use Buildings: The total gross floor area devoted to nonresidential uses in a vertical mixed use building shall be included in the calculation of minimum FAR.</p> <p>*Administrative Relief: Administrative relief may be granted for up to a 12% reduction to a minimum of 0.22 FAR based on physical site constraints of topography, drainage and the preservation of significant natural features.</p>
Maximum FAR	None	None	None	
Minimum residential density:				
Newer/developing contextual area	None	8 dwelling units per acre	8 dwelling units per acre	*Calculation: Residential density shall be measured as an average over the gross land area of only the residential portion of the planned site or zone district.
Older/established contextual area	None	8 dwelling units per acre	8 dwelling units per acre	*Exemption: Subject to the mix of use requirements in section <a href="#">7.3.703</a> of this part, when residential uses in an MU center are all contained in vertical mixed use buildings, the

				development shall be exempt from the minimum residential density requirement.
				*Credit For Residential Density In Vertical Mixed Use Buildings: Subject to the mix of use requirements in section <a href="#">7.3.703</a> of this part, when an activity center contains land area devoted to residential uses in single purpose buildings, any additional residential dwelling units contained in vertical mixed use buildings within the mixed use center may be credited toward meeting this minimum residential density requirement.
Maximum building height:				
Newer/developing contextual area	35 ft.	45 ft. <sup>1,2,3</sup>	65 ft. <sup>1,2,3</sup>	1.Except in the MU-NC district, requests for additional height shall be subject to the standards and criteria in HR - high rise overlay zone (section <a href="#">7.3.503</a> of this article).
				2.To provide a sensitive transition between land uses of different intensities, any portion of a building within a mixed

		use zone district located within 100 ft. of a single-family or two-family dwelling shall not exceed 40 ft. in height.
		3. Additional height may be allowed when a parking structure is integrated into the design of a building housing a principal use, as stated in section <a href="#">7.3.715</a> (parking structures) of this part.
Older/established contextual area	The maximum building height shall not exceed the lesser of: 1) 125% of the average height of buildings located on the same and facing block faces; or 2) 5 ft. more than the existing height(s) of the immediately adjacent building or buildings.	
Front build-to lines (by street type):		
Perimeter or internal streets (by mixed use street classification)		*The maximum front build-to line requirements shall apply to both street sides of a corner lot or site.
		*The maximum front build-to line applies to principal and accessory buildings and structures, but not including entryway features or signage.
		*For perimeter parkways or arterial

	<p>streets, the build-to line for the entire length of the street frontage along the zone district shall be set within the 0 ft. to 25 ft. build-to area on the concept plan. The primary facade of each building may vary up to a maximum of 10 ft. behind the build-to line as set forth on the concept plan, but shall not extend beyond the maximum 25 ft. build-to area.</p>
	<p>*For perimeter parkways or arterial street frontages that form the boundary of a mixed use zone district, if 50% or more of the entire length of the street frontage along the zone district is occupied by building wall, then the edge of the parking areas, including screening walls, adjacent to the buildings may be pulled up to within 4 ft. of the building facade. If less than 50% of the entire length of the street frontage along the zone district is occupied by building wall, then the edge of the parking areas, including screening walls, adjacent to the buildings, must be set</p>

		in the maximum 25 ft. build-to area.
		*The maximum front build-to line requirements shall apply only to the lower 30 ft. or first 2 stories, whichever is less, of a building, and higher portions of the building may be stepped back farther from the front property line.
		*To encourage pedestrian friendly streets by bringing buildings close to pedestrian sidewalks and ways, the City encourages principal, nonresidential buildings to be built to the back edge of the public sidewalk (0 ft. build-to line) except as necessary to allow room for outdoor seating and service areas, outdoor sales and displays, landscaping, entryways, and similar pedestrian and customer amenities.
		*The build-to area between the front property line and the front building wall of residential structures may be used to provide space for privacy, landscaping, private



		courtyards/open areas/entryways, and similar amenities.		
Expressway	Not applicable			
Parkway - 6 lane	Minimum: 0 ft. Maximum: 25 ft.	Minimum: 0 ft. Maximum : 25 ft.	Minimum: 0 ft. Maximum : 25 ft.	
Parkway - 4 lane	Minimum: 0 ft. Maximum: 25 ft.	Minimum: 0 ft. Maximum : 25 ft.	Minimum: 0 ft. Maximum : 25 ft.	
Entry/spine street	Minimum: 0 ft.  Maximum (no residential on ground floor): 5 ft.  Maximum (residential on ground floor): 15 ft.	Minimum: 0 ft.  Maximum (no residential on ground floor): 5 ft.  Maximum (residential on ground floor): 15 ft.		
Collector street	Minimum: 0 ft.  Maximum (no residential on ground floor): 5 ft.  Maximum (residential on ground floor): 15 ft.			
Local street	Minimum: 0 ft.  Maximum (no residential on ground floor): 5 ft.			

	Maximum (residential on ground floor): 15 ft.	
Minimum building separation on alleys	Minimum 30 ft. building face to building face separation across width of alley	

(Ord. 09-74)

**7.3.708: MIXED USE ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:**  

- A. Access To Components In A Vertical MU Building: Separate pedestrian access and entrances shall be provided for the different uses within a vertical MU building.
  
- B. Accessory Dwelling Units: Accessory dwelling units are allowed in any MU zone district as an accessory use to a principal single-family detached, duplex, or townhouse dwelling. Accessory dwelling units within an MU zone district shall comply with the accessory dwelling unit standards applicable in the traditional neighborhood development zone district (subsection [7.3.102](#) of this article).
  
- C. Accessory Limited General Retail Services: Limited general retail services are allowed as an accessory use to a principal industrial use type only. They may be operated on the same lot as the principal industrial use and in conjunction with uses that are specifically allowed in a specific district. In the MU-R/EC zone district, such accessory retail sales must be conducted within the same building as the principal permitted use.
  
- D. Automobile Service And Repair: This use shall meet the following conditions:
  - 1. Body and fender repair service is a conditional use only in the MU-CC and MU-R/EC zone districts;
  - 2. All work is done within an enclosed building;
  - 3. Outside storage of automotive parts or junk vehicles is prohibited; and
  - 4. The nearest point of the building in which the activity occurs is more than one hundred feet (100') from the boundary of a residential district or use measured in a straight line.
  
- E. Communication Services: Radio stations are the only permitted communication services permitted in an MU-NC zone.
  
- F. Drive-Up Facilities: The specific restaurant uses denoted by an asterisk in the use table in section [7.3.705](#) of this part shall not contain any drive-up facilities.

G. Live/Work Units: Multiple live/work units may occur in one structure. Custom manufacturing in an MU-NC zone district is a permitted use in live/work units only.

H. Liquor Establishment: On premises liquor establishments in the specified zone districts shall be located no closer than two hundred feet (200') from any residentially used or zoned property. The measurement shall be from the property/lot line of the liquor establishment to the property/lot line of the residentially zoned/used property. The distance requirement shall not apply if the residentially zoned property is separated from the property of the liquor establishment by a "major street" as defined in the City's Subdivision Code. The distance requirements of this subsection shall not apply to an on premises liquor establishment that is also a restaurant if the bar area does not constitute more than thirty five percent (35%) of the floor area.

I. Outdoor Storage: In the MU-NC zone district, outdoor storage of any materials related to nonresidential uses is prohibited. In the MU-CC and MU-R/EC zone districts, outdoor storage is allowed as an accessory use to a nonresidential use if it is enclosed on all sides by a screening wall or solid fence which is at least six feet (6') in height. In no event shall materials be stacked or stored to exceed the height of the screening fence or wall.

J. Size Limits On Individual Uses In The MU-NC Zone District: In order to minimize the impact of nonresidential uses within an MU-NC zone district on the surrounding residential neighborhood, the following nonresidential uses within the MU-NC zone district indicated by an asterisk in the use table in section [7.3.705](#) of this part, may not exceed five thousand (5,000) square feet in gross floor area in any single building: communication services, consumer convenience services, consumer repair services, specialty food sales, convenience food sales, general retail, liquor sales, personal improvement services, personal services, pet services, pharmacy, indoor entertainment, indoor sports and recreation, fast food/quick serve restaurant, sit down restaurant, veterinary services (small animals), religious institution, semipublic community recreation, social service center, custom manufacturing.

K. Veterinary Clinics And Animal Hospitals: All activities must be conducted within a totally and permanently enclosed, soundproofed building and are restricted to small animal care with boarding of animals overnight only due to the animal's medical condition and associated treatment at the clinic/hospital. (Ord. 09-74)

### **7.3.709: INCENTIVES IN THE MIXED USE ZONE DISTRICTS:**

Regulatory incentives are provided in the MU zoning districts to encourage and facilitate creative MU development. Following is a summary of the incentives provided and cross referenced to the applicable Zoning Code sections:

A. Staff Authority: Broader application of staff authority to grant administrative relief from specified development and design standards to development in the new MU zoning districts. See subsection [7.5.1103B](#) of this chapter.

B. Modifications: Modifications of certain standards that reflect less demand in MU projects, such as off street parking. See section 7.3.712 of this part.

### C. Alternative Compliance:

1. An applicant may propose alternative compliance to the strict application of design standards, such that the alternative:
  - a. Achieves the intent of the subject design standard to the same or better degree than the subject standard;
  - b. Achieves the mixed use goals and policies in the Comprehensive Plan to the same or better degree than the subject standard; and
  - c. Results in equivalent or better benefits to the community as compliance with the subject design standard.
2. Features which may be substituted or modified to achieve alternative compliance include, but are not limited to:
  - a. Pedestrian walkways through parking lots, subsection [7.3.717B2](#) of this part.
  - b. Pedestrian pass through requirement, subsection [7.3.717B4](#) of this part.
  - c. Maximum block length requirements, subsection [7.3.722B2](#) of this part.
  - d. Alternative site layout and building orientation, subsection [7.3.722D5](#) of this part.
  - e. For infill development and redevelopment sites containing no more than twenty five (25) acres and bordered by developed land along the entire perimeter (excluding intervening public streets), existing on site and off site features that are equivalent in function to those required under this part may be substituted or modified as alternative compliance to the MU standards. Existing features which may be substituted or modified to achieve alternative compliance include, but are not limited to, streets, alleys, street crossings, tree lawns (parkways), sidewalks, pedestrian walkways, building entrance orientation, building and entrance design, and streetscape design.

The procedures and criteria for alternative compliance are established in the mixed use development design manual. (Ord. 09-74)

### **7.3.710: MIXED USE TRANSITION USE TYPES:**

MU transition uses are principal uses that are appropriate to site at the edges of development in an MU zone district to provide a gradual transition from the MU zone district to less intensive adjoining uses. Transition uses are subject to the transition operational standards in section [7.3.721](#) of this part and may include, but are not limited to, the following specific use types:

- A. Administrative And Safety Services: Administrative and safety services.
- B. Attached Dwelling Units: Attached dwelling units, multi-family dwellings not to exceed more than six (6) dwelling units per building when used as a transition to adjacent, single-family detached dwellings.

C. Cultural Services: Cultural services.

D. Daycare Services: Daycare services.

E. General Offices: General offices, but not including drive-up or drive-through facilities.

F. Human Service Establishments: Human service establishments.

G. Live/Work Units: A residential use type that combines a dwelling and a commercial space under single ownership in a structure. The residential portion of the unit shall contain at least four hundred (400) square feet of gross floor area. The commercial space shall allow activities compatible with residential use with respect to noise, smoke, vibration, smell, electrical interference, and fire hazard, and may include such uses as professional services and offices, and the creation, display and sale of art, craftwork, jewelry, fabrication of cloth goods and similar activities.

H. Neighborhood Serving Retail: Neighborhood serving retail, provided operations do not exceed fourteen (14) hours per day.

I. Personal Services: Personal services, provided operations do not exceed fourteen (14) hours per day.

J. Public Parks: Public neighborhood, community, or regional parks.

K. Restaurants: Restaurants, quick serve or sit down, but not including drive-up or drive-through facilities.

L. Retirement Homes: Retirement homes.

M. Specialty Food Sales: Specialty food sales, provided operations do not exceed fourteen (14) hours per day.

N. Other Transition Uses: Other transition uses, approved by the Manager for purposes of a transition use, and similar to the other transition uses listed herein in terms of building type, intensity of operations and use and potential for adverse impacts on adjacent properties. (Ord. 09-74)

**7.3.711: MIXED USE LIGHTING STANDARDS:**   

All exterior lighting within an MU zone district, including signage lighting, shall meet the following additional standards:

- A. A developmentwide lighting plan shall be submitted for review at the time an MU concept plan is submitted. A developmentwide lighting plan shall address at a minimum the general location and general types of lighting to include the following: public and private street lighting, pedestrian lighting, parking lot lighting, residential area lighting, signage lighting, and lighting for service and delivery areas.
- B. A detailed lighting plan that indicates lighting levels shall be submitted for review at the time a development plan is submitted.
- C. The detailed lighting plan shall include designs of poles and fixtures that are compatible with or complement surrounding neighborhoods.
- D. Fully shielded lighting fixtures shall be used in all parking areas, in service and delivery areas, in residential areas, and for signage.
- E. Ornamental light fixtures may be used in streetscapes; however, public street lighting shall meet the standards of and be approved by Colorado Springs Utilities. Both public and private lighting shall be coordinated to create a uniform, consistent system of lighting that enhances pedestrian visibility while minimizing lighting glare and contrast.
- F. The light element (lamp or globe) of a fixture shall not extend below the cutoff shield.
- G. When a canopy (freestanding or attached) is illuminated, the lighting fixture shall not extend below the ceiling of the canopy.
- H. Lighting of commercial uses adjacent to or within the immediate vicinity of residential uses shall be designed with fixtures and poles that illuminate commercial uses while eliminating light trespass into residential areas. (Ord. 09-74)

### **7.3.712: MIXED USE PARKING REQUIREMENTS:**

- A. Minimum Number Of Off Street Parking Spaces: The minimum number of off street parking spaces to be provided for a use in an MU zone district are listed in the following table. All parking ratios are based upon the gross floor area contained within the building. When the computation of the required off street parking spaces results in a fraction, the requirement shall be rounded to the nearest whole interval. Fractions of 0.5 or less shall be rounded to the next lowest whole number. Fractions greater than 0.5 shall be rounded to the next highest whole number.

The required off street parking spaces for a use which is not specifically listed, shall be determined by the Manager based upon the requirements of other listed similar uses.

Use Types	Minimum Required Off Street Parking Spaces Within An MU Zone District		
Residential Use Types:			
<table border="1"> <tr> <td data-bbox="240 548 337 617"></td> <td data-bbox="337 548 943 617">Accessory dwelling unit</td> </tr> </table>		Accessory dwelling unit	1 space per dwelling unit
	Accessory dwelling unit		
<table border="1"> <tr> <td data-bbox="240 617 337 686"></td> <td data-bbox="337 617 943 686">Attached dwelling units:</td> </tr> </table>		Attached dwelling units:	
	Attached dwelling units:		
<table border="1"> <tr> <td data-bbox="240 686 337 743"></td> <td data-bbox="337 686 943 743">Studio or efficiency</td> </tr> </table>		Studio or efficiency	1.1 spaces per dwelling unit
	Studio or efficiency		
<table border="1"> <tr> <td data-bbox="240 743 337 800"></td> <td data-bbox="337 743 943 800">1 bedroom</td> </tr> </table>		1 bedroom	1.5 spaces per dwelling unit
	1 bedroom		
<table border="1"> <tr> <td data-bbox="240 800 337 856"></td> <td data-bbox="337 800 943 856">2 bedrooms</td> </tr> </table>		2 bedrooms	1.7 spaces per dwelling unit
	2 bedrooms		
<table border="1"> <tr> <td data-bbox="240 856 337 913"></td> <td data-bbox="337 856 943 913">3 bedrooms</td> </tr> </table>		3 bedrooms	2.0 spaces per dwelling unit
	3 bedrooms		
<table border="1"> <tr> <td data-bbox="240 913 337 970"></td> <td data-bbox="337 913 943 970">Elderly (60 or over)</td> </tr> </table>		Elderly (60 or over)	0.6 space per dwelling unit
	Elderly (60 or over)		
<table border="1"> <tr> <td data-bbox="240 970 337 1171"></td> <td data-bbox="337 970 943 1171">Boarding house, dormitory, fraternity, sorority or other communal living arrangement where common kitchen facilities service the occupants</td> </tr> </table>		Boarding house, dormitory, fraternity, sorority or other communal living arrangement where common kitchen facilities service the occupants	0.5 space per bed
	Boarding house, dormitory, fraternity, sorority or other communal living arrangement where common kitchen facilities service the occupants		
<table border="1"> <tr> <td data-bbox="240 1171 337 1241"></td> <td data-bbox="337 1171 943 1241">Human service establishment:</td> </tr> </table>		Human service establishment:	
	Human service establishment:		
<table border="1"> <tr> <td data-bbox="240 1241 337 1297"></td> <td data-bbox="337 1241 943 1297">Detoxification center</td> </tr> </table>		Detoxification center	1 space per 8 beds
	Detoxification center		
<table border="1"> <tr> <td data-bbox="240 1297 337 1354"></td> <td data-bbox="337 1297 943 1354">Human service facility:</td> </tr> </table>		Human service facility:	1 space per 8 beds
	Human service facility:		
<table border="1"> <tr> <td data-bbox="240 1354 337 1411"></td> <td data-bbox="337 1354 943 1411">Hospice</td> </tr> </table>		Hospice	1 space plus 1 per 8 beds
	Hospice		
<table border="1"> <tr> <td data-bbox="240 1411 337 1467"></td> <td data-bbox="337 1411 943 1467">Nursing home</td> </tr> </table>		Nursing home	1 space per 5 beds
	Nursing home		
<table border="1"> <tr> <td data-bbox="240 1467 337 1524"></td> <td data-bbox="337 1467 943 1524">Youth home</td> </tr> </table>		Youth home	1 space plus 1 per 8 beds
	Youth home		
<table border="1"> <tr> <td data-bbox="240 1524 337 1581"></td> <td data-bbox="337 1524 943 1581">Human service home</td> </tr> </table>		Human service home	1 space per dwelling unit
	Human service home		
<table border="1"> <tr> <td data-bbox="240 1581 337 1638"></td> <td data-bbox="337 1581 943 1638">Human service residence:</td> </tr> </table>		Human service residence:	1 space per dwelling unit
	Human service residence:		
<table border="1"> <tr> <td data-bbox="240 1638 337 1694"></td> <td data-bbox="337 1638 943 1694">Hospice</td> </tr> </table>		Hospice	1 space per dwelling unit
	Hospice		
<table border="1"> <tr> <td data-bbox="240 1694 337 1751"></td> <td data-bbox="337 1694 943 1751">Human service shelter:</td> </tr> </table>		Human service shelter:	1 space plus 1 per 8 beds
	Human service shelter:		
<table border="1"> <tr> <td data-bbox="240 1751 337 1808"></td> <td data-bbox="337 1751 943 1808">Healthcare support facility</td> </tr> </table>		Healthcare support facility	1 space plus 1 per 8 beds
	Healthcare support facility		

	Mobile home	1 space per mobile home space
	Mobile home park	1 space per mobile home space
	Multi-family dwelling (see Attached dwelling units)	
	Retirement home	0.6 space per dwelling unit
	Rooming house	0.5 space per bed
	Single-family detached dwelling	1 space per dwelling unit
Office Use Types:		
	Financial services; bank, savings and loan, credit union	1 space per 400 square feet <sup>1</sup>
	General offices:	
	Administrative, business or professional	1 space per 400 square feet <sup>1</sup>
	Telemarketing	1 space per 200 square feet <sup>1</sup>
Live/work structure:		
	Residential portion only	1 space per dwelling unit
	Nonresidential portion only	The lesser of: 1 space per 300 square feet or 1 space for each nonresident employee
	Medical offices, labs and clinics	1 space per 200 square feet <sup>1</sup>
Commercial Use Types:		
	Agricultural sales and service, nursery	1 space per 600 square feet for buildings plus 1 space per 2,000 square feet of outdoor storage and display <sup>1</sup>
	Automotive and equipment services:	
	Auto service	1 space per 200 square feet <sup>1</sup>
	Automotive rentals	1 space per 400 square feet of office space plus adequate



		space for vehicle storage and display <sup>1</sup>
	Automotive repair garage	1 space per 200 square feet of building area plus adequate space for vehicle storage <sup>1</sup>
	Automotive sales	1 space per 400 square feet of office space plus adequate space for vehicle storage and display <sup>1</sup>
	Automotive storage yard	1 space per 400 square feet of office space <sup>1</sup>
	Automotive wash	1 space per bay or stall
	Body and fender repair services	1 space per 200 square feet of building area plus adequate space for vehicle storage <sup>1</sup>
	Construction equipment business	1 space per 400 square feet of office space plus adequate space for vehicle storage <sup>1</sup>
	Equipment rental and sales	1 space per 400 square feet of office space plus adequate space for vehicle storage and display <sup>1</sup>
	Equipment repair services	1 space per 200 square feet of building area plus adequate space for vehicle storage <sup>1</sup>
	Equipment storage yard	1 space per 400 square feet of office space <sup>1</sup>
	Bar, tavern or nightclub	1 space per 100 square feet <sup>1</sup>
	Bed and breakfast inn	1 space per 2 guestrooms or suites
	Building maintenance services	1 space per 400 square feet <sup>1</sup>
	Business office support services	1 space per 500 square feet <sup>1</sup>
	Business park	1 space per 500 square feet <sup>1</sup>

Campground	1 space per 400 square feet of office space <sup>1</sup>
Commercial center:	
Less than 10 acres	1 space per 250 square feet <sup>1</sup>
10 _ 30 acres	1 space per 300 square feet <sup>1</sup>
Over 30 acres	1 space per 300 square feet <sup>1</sup>
Communication services	1 space per 400 square feet <sup>1</sup>
Construction sales and services:	
Completely enclosed	1 space per 600 square feet <sup>1</sup>
Includes outside activities	1 space per 600 square feet <sup>1</sup>
Consumer convenience services	1 space per 400 square feet <sup>1</sup>
Consumer repair services	1 space per 400 square feet <sup>1</sup>
Exterminating services	1 space per 400 square feet <sup>1</sup>
Food sales:	
Convenience food sales	1 space per 300 square feet <sup>1</sup>
General food sales	1 space per 300 square feet <sup>1</sup>
Specialty food sales	1 space per 300 square feet <sup>1</sup>
Funeral home or mortuary	1 space per 4 seats
Hotel/motel	1 space per 1 guestroom or suite plus 1 space per 200 square feet of restaurant space plus 1 space per 8 seats of meeting space <sup>1</sup>
Kennels	1 space per 400 square feet of office space <sup>1</sup>
Laundry services (large scale activity)	1 space per 750 square feet <sup>1</sup>
Liquor sales	1 space per 300 square feet <sup>1</sup>
Miniwarehouses	None, but spaces are required for accessory uses

	Mixed commercial-residential	See the specific requirements for the commercial and residential uses
	Personal improvement services	1 space per 150 square feet <sup>1</sup>
	Personal services; barber and beauty shops, photo studios, etc.:	1 space per 400 square feet <sup>1</sup>
	Barber	1.5 spaces per chair
	Beauty salon	1.5 spaces per chair
	Pet services	1 space per 400 square feet <sup>1</sup>
	Pharmacy:	
	Office	1 space per 400 square feet <sup>1</sup>
	Retail	1 space per 300 square feet <sup>1</sup>
	Recreation, commercial:	
	Amusement park	30 spaces per acre
	Arcade or game room	1 space per 300 square feet <sup>1</sup>
	Bowling alley	4 spaces per lane
	Commercial stable	1 space per 5 stalls
	Golf course	4 spaces per hole
	Golf driving range	1 space per tee
	Ice and roller skating rink	1 space per 150 square feet <sup>1</sup>
	Miniature golf course	1 space per hole
	Pool hall	2 spaces per table
	Racetrack	1 space per 4 seats
	Shooting range	1 space per firing lane
	Stadium and/or sports arena	1 space per 4 seats
	Swimming pool	1 space per 150 square feet of pool area <sup>1</sup>
	Tennis, handball or racquetball facilities	3 spaces per court

	Theater	1 space per 4 seats
	Recreational vehicle park	1 space per recreational vehicle space
	Restaurants:	
	Drive-in or fast food	1 space per 100 square feet <sup>1</sup>
	Outdoor seating	1 space per 200 square feet <sup>1</sup>
	Quick serve	1 space per 100 square feet <sup>1</sup>
	Sit down - served at table	1 space per 100 square feet <sup>1</sup>
	Retail, general:	
	Department store, market, etc.	1 space per 300 square feet <sup>1</sup>
	Furniture or appliances	1 space per 600 square feet <sup>1</sup>
	Sexually oriented business:	
	Bar	1 space per 100 square feet <sup>1</sup>
	Retail	1 space per 300 square feet <sup>1</sup>
	Surplus sales	1 space per 300 square feet of both outdoor and indoor display area <sup>1</sup>
	Teen club/young adult club	1 space per 100 square feet <sup>1</sup>
	Veterinary service:	
	Large animal hospitals	1 space per 200 square feet <sup>1</sup>
	Small animal clinics	1 space per 200 square feet <sup>1</sup>
	Civic Use Types:	
	Administrative and safety services	1 space per 400 square feet <sup>1</sup>
	Cemetery	1 space per 400 square feet of office space <sup>1</sup>
	Club (membership):	
	Recreational clubs	1 space per 150 square feet <sup>1</sup>
	Social clubs:	

	Bar	1 space per 100 square feet plus 1 space per 400 square feet for office and remaining area <sup>1</sup>
	Crematory	1 space per 400 square feet of office space <sup>1</sup>
	Cultural services:	
	Library	1 space per 600 square feet <sup>1</sup>
	Museum	1 space per 1,000 square feet <sup>1</sup>
	Daycare services:	
	Daycare center	1 space per 400 square feet <sup>1</sup>
	Preschool	1 space per 400 square feet <sup>1</sup>
	Detention facilities	Per development plan
	Educational institutions:	
	Charter schools:	
	Elementary or junior high	2 spaces per classroom
	Senior high	1 space per 4 students
	College and university	0.5 space per faculty member and employee plus 1 space per 6 students
	Nonpublic schools:	
	Elementary or junior high	2 spaces per classroom
	Senior high	1 space per 4 students
	Proprietary schools	0.5 space per faculty member and employee plus 1 space per 6 students
	Public schools:	
	Elementary or junior high	2 spaces per classroom
	Senior high	1 space per 4 students

	Hospital	2 spaces per bed
	Maintenance and service facility	1 space per 200 square feet <sup>1</sup>
	Mausoleum/columbarium	1 space per 400 square feet of office space <sup>1</sup>
	Public assembly	1 space per 4 seats
	Public park and recreation services	Determined by Park Board
	Religious institution	1 space per 4 seats
	Semipublic community recreation	1 space per 4 seats
	Social service center:	
	Medical	1 space per 200 square feet <sup>1</sup>
	Office	1 space per 400 square feet <sup>1</sup>
	Retail	1 space per 300 square feet <sup>1</sup>
	Utility services	Per development plan
	Industrial Use Types:	
	Construction batch plant	1 space per 750 square feet <sup>1</sup>
	Construction or contractor yards	1 space per 750 square feet <sup>1</sup>
	Custom manufacturing	1 space per 750 square feet <sup>1</sup>
	Garbage service companies	1 space per 200 square feet <sup>1</sup>
	General industry:	
	Heavy	1 space per 750 square feet <sup>1</sup>
	Light	1 space per 750 square feet <sup>1</sup>
	General retail services (limited)	1 space per 300 square feet <sup>1</sup>
	Junkyard	1 space per 750 square feet <sup>1</sup>
	Manufacturing	1 space per 750 square feet <sup>1</sup>
	Meatpacking and related industry	1 space per 750 square feet <sup>1</sup>
	Mining operations:	

	Temporary surface and open pit	1 space per 400 square feet of office space <sup>1</sup>
	Underground (activities above)	1 space per 400 square feet of office space <sup>1</sup>
	Underground (activities under)	1 space per 400 square feet of office space <sup>1</sup>
	Recycling:	
	Large recycling collection centers	1 space per 1,000 square feet <sup>1</sup>
	Recycling processing centers	1 space per 1,000 square feet <sup>1</sup>
	Research and development	1 space per 400 square feet <sup>1</sup>
	Stockyards	1 space per 400 square feet of office space <sup>1</sup>
	Transfer facility	1 space per 1,000 square feet <sup>1</sup>
	Truck terminal	1 space per 200 square feet <sup>1</sup>
	Vehicle dismantling yard	1 space per 400 square feet of office space <sup>1</sup>
	Warehouse	1 space per 1,000 square feet <sup>1</sup>
	Warehousing and distribution	1 space per 1,000 square feet <sup>1</sup>
	Parking Use Types:	
	Parking lot/surface parking	Per development plan
	Parking structure	Per development plan
	Transportation Use Types:	
	Aviation facilities	Per development plan
	Railroad facilities	Per development plan
	Transit station	Per development plan
	Transportation terminal	Per development plan

Note:

1. Square footage is based off the gross floor area within a particular business.

B. Supplemental Parking Requirements: The following parking standards shall be applicable to all development within an MUzone district:

1. On Street Parking; General: The Manager may allow on street parking spaces located within four hundred feet (400') of the subject use to be credited to meet up to twenty five percent (25%) of the minimum required off street parking spaces. On street parking allowed by this provision shall not be counted toward the maximum amount of parking allowed. This provision shall not apply when a new MU zone district is created within an older/established contextual area, unless the district includes newly created public streets that can accommodate on street parking or where it can be demonstrated through a parking utilization study that the existing on street capacity on adjacent streets is underutilized.
2. Credit Reductions: The Manager may reduce the minimum off street parking requirements by up to fifteen percent (15%) for MU developments meeting at least one of the following requirements:
  - a. The development is sited within one-fourth ( $\frac{1}{4}$ ) mile of a high frequency transit station or terminal.
  - b. The development is sited within one-fourth ( $\frac{1}{4}$ ) mile of the downtown core, as defined in subsection [7.4.414F](#) of this chapter.
3. Maximum Off Street Parking Amount: The maximum amount of off street parking permitted for all uses in an MU zone district shall be one space per one hundred seventy five (175) square feet of gross floor area.
4. Exemption For Off Street Parking In Structures: Required off street parking spaces provided within a parking structure (either above or below grade) shall be exempt from the maximum off street parking amount established above.
5. Shared Parking Standards: The amount of off street parking required for an MU development may be reduced by an amount determined by the Manager when it can be demonstrated through a parking demand study that sufficient parking is or can be met by the subject uses through shared parking. The parking demand study shall provide information and evidence about the anticipated parking demand at peak times during a day and the distance relationship between available shared parking spaces and the specific uses served.
6. Shared Parking Required: To promote an overall reduction in parking, the use of shared parking shall be required when the development is under the control of a single owner/developer and contains commercial, retail, office, institutional, or public uses with staggered peak parking demands.
7. Shared Parking And Cross Access Agreements: Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the Manager and recorded prior to issuance of a building permit. This agreement must be recorded as a deed restriction on both properties and cannot be modified or revoked without the consent of the Manager. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Manager or provide the full amount of required parking for each use, in accord with the requirements of this part, unless a satisfactory alternative remedy is approved by the Manager.
8. Maximum Total Reductions: Total cumulative reductions to the minimum off street parking requirements shall not exceed twenty five percent (25%). (Ord. 09-74)



### **7.3.713: MIXED USE PARKING LOCATION AND LAYOUT:**

A. Location: Off street surface parking provided on site for development within an MU zone district shall be located according to the following standards:

1. Off street, surface parking areas shall be located at the side, to the rear, or at the face of a building that does not front along a street. No off street parking shall be located between a building and the adjacent street frontage.
2. All off street surface parking areas shall be located within a designated block. For block faces that are composed entirely of surface parking lot areas, a street or enhanced drive aisle that provides a detached sidewalk, defined pedestrian crossings, and street or parking lot trees along the block face shall border the block face.

B. Off Site Parking Provisions: Subject to Manager approval, subsequent to receipt of a professionally prepared parking study addressing how site parking demand will be met, the following standards shall apply:

1. On street parking may be counted toward the minimum off street parking requirements as required in section [7.3.712](#) of this part.
2. Off site parking areas may be permitted within four hundred feet (400') of the principal use served.
3. Valet parking service is permitted for all nonresidential uses.
4. Spaces available in public parking structures located within one thousand three hundred twenty feet (1,320') of the subject use may be counted toward the total amount of required off street parking.
5. Direct, continuous pedestrian connections, using pedestrian walkways or sidewalks, shall be provided between any on street parking, remote (off site) parking, or public parking facilities and the use(s) served. All pedestrian connections shall comply with applicable design standards stated in this part. (Ord. 09-74)

### **7.3.714: MIXED USE PARKING LOT LANDSCAPING:**

A. Purpose: These standards are intended to encourage landscaped surface parking lots, including the planting of trees, that will improve the appearance of an MU development by breaking up expanses of paved areas, reduce the significant solar heat gain from parked automobiles and paved parking areas, improve the management of stormwater runoff, and provide a more pedestrian friendly environment. Except as expressly provided for in this section, parking lot landscaping shall be consistent with the landscape policy manual.

B. General Requirements: Landscaping within or adjacent to parking lots shall consist of required trees, screening vegetation or devices, and ground plane cover, and shall be subject to the following conditions and requirements:

1. Except as expressly allowed by this section, landscaping outside of parking lots may not be used to meet the internal parking lot landscaping requirement.

2. To meet the parking lot landscaping standards below, the tree types and minimum planter sizes shall be consistent with the landscape policy manual.
  3. Parking lot landscaping is also subject to the ground plane and turf requirements in section [7.4.317](#) of this chapter and the landscape policy manual.
  4. An applicant may request administrative relief from the requirements of this subsection in accord with subsection [7.5.1103B](#) of this chapter.
  5. Except as expressly waived or modified by the City in an older/established contextual area, in order to reduce the scale of large surface parking areas and make them more pedestrian friendly, the total amount of surface parking provided shall be broken up by landscaping and pedestrian walkways according to the following standards:
    - a. A pedestrian walkway that extends from the farthest row of parking to either a building entrance or a sidewalk leading to the entrance shall be provided for every four hundred (400) linear feet of surface vehicle parking area as measured perpendicular to the walkway.
    - b. Parking lot trees shall be provided as follows: At least one tree for every eight (8) parking spaces for total surface parking provided at a ratio of one parking space for every one hundred seventy five (175) to two hundred (200) square feet of total gross floor area; and at least one tree for every ten (10) parking spaces for total surface parking provided at a ratio of one parking space for every two hundred one (201) to three hundred (300) or more square feet of total gross floor area.
    - c. Subject to approval by the City Engineer, the placement of natural, nonstructural drainage facilities in landscaped medians or parkways is allowed.
- C. Design Standards For Interior Parking Lot Landscaping: Required trees for interior parking lot landscaping shall be evenly distributed throughout the parking lot to create a canopy effect in the parking lot, and shall be located to divide and break up expanses of paving and long rows of parking spaces according to the following standards:
1. Trees shall be planted in either "island" planters that span the length of two (2) parking spaces, or in "finger" planters that span the length of one parking space. In addition, trees may be planted in the landscaped parkway or alongside a pedestrian walkway.
  2. All parking rows or bays shall terminate in an "island" planter or "finger" planter.
  3. Wheel stops or similar devices shall be used as necessary to prevent damage to the trees and landscaped planters from vehicle overhang.
  4. At a minimum, one planter with a tree shall be installed for every twelve (12) contiguous parking spaces in a row.
- D. Required Parking Lot Screening: Screening requirements shall apply to both perimeter and internal streets.

1. **Surface Parking Spaces:** Surface parking spaces shall be screened from view from adjacent properties and from adjacent streets to a minimum height of forty two inches (42") by the use of berms, plantings, and/or structures.
2. **Maximum Spacing Of Plants:** The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas such as sodded berms and planting beds shall be consistent with the landscape policy design manual.
3. **Use Of Screening Structures In Lieu Of Plantings:** The use of structures such as masonry walls or ornamental fencing for streetside parking lot screening purposes shall be permitted in lieu of plantings. Structures shall be a minimum of forty two inches (42") in height.

**E. Exceptions For Infill And Redevelopment:** In order to encourage infill and redevelopment on constrained sites containing no more than twenty five (25) acres and bordered by developed land along the entire perimeter (excluding intervening public streets), the following exceptions to the parking lot landscaping requirements above are available to such infill and redevelopment occurring within an older/established contextual area:

1. The Manager may waive up to fifty percent (50%) of the parking lot landscaping requirements provided that trees planted along the site perimeter also serve to screen and shade the interior of the parking lot; or
2. The Manager may waive up to fifty percent (50%) of the parking lot landscaping requirements if a low decorative wall or fence of a minimum height of no less than forty two inches (42") is installed along the parking area perimeter that also serves to screen the parking area from public view; or
3. Provided there are no adverse impacts on adjoining properties, an exemption may be granted by the Manager from the landscaping screening requirements along a side lot line that is not adjacent to a street.

**F. Tree Preservation As Administrative Relief:** The preservation of valuable trees may serve as a credit in lieu of required shade trees as provided in section [7.4.208](#) of this chapter. (Ord. 09-74)

### **7.3.715: MIXED USE PARKING STRUCTURES:**

Off street parking facilities in above grade structures shall comply with the following standards:

**A. Design:** Parking structures shall comply with the following design standards:

1. **Design Of Walls/Structure:** Blank walls are prohibited. Parking structures shall be visually similar in character and scale to adjacent buildings.
2. **Architecturally Articulated Facades:** Except on sides abutting an alley, all floors above the ground floor of the parking structure shall have architecturally articulated facades designed to screen the view of parked cars.

**B. Design Of Entries/Access:** Vehicle entries to off street parking structures shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street

frontage. At a minimum, parking structure facilities shall have user vehicle access from locations that minimize conflicts with pedestrian circulation.

C. Ground Floor Use And Design; Nonresidential Parking Structures: When a parking structure provides commercial parking, or is integrated into a building containing primarily nonresidential uses, at least eighty percent (80%) of the ground floor of any side of an above grade parking structure that is adjacent to a public street (except an alley) or adjacent to a public open space/plaza shall be constructed to an adequate depth to permit future occupancy by any commercial or other nonparking principal use allowed in the district. The ground level facade of the structure (at least the first 12 vertical feet of the structure) shall include the following features:

1. Facade articulation and modulation through changes in vertical wall plane and/or a change in building material;
2. Use of real windows with glazing that may be translucent, but shall not include black or mirrored glass or similar opaque glazing;
3. Integration of multiple building entrances.

D. Ground Floor Use And Design; Residential Parking Structures: When a parking structure provides parking for residential uses in the area, or when the structure is integrated into a residential building, the applicant shall either:

1. Follow the design standard in subsection C of this section; or
2. Use the ground floor of the structure for parking, provided the ground level facade of the structure (at least the first 12 vertical feet of the structure) includes at least two (2) of the following features:
  - a. Facade articulation and modulation through changes in vertical wall plane and/or a change in building material;
  - b. Use of real windows with glazing that may be translucent, but shall not include black or mirrored glass or similar opaque glazing;
  - c. Use of false windows defined by frames or lintels and sills;
  - d. Integration of multiple building entrances;
  - e. Buffering of the street edge with landscaping, berms, or landscaped planters.

E. Incentive For Parking Structures: Subject to approval by the Manager, if off street parking is provided in a structure (above or below grade) that is integrated into the design of a building containing a principal use, the maximum building height may be increased without applicant use of the high rise overlay district. Pursuant to the administrative relief provisions in subsection [7.5.1103B](#) of this chapter, the Manager may increase the permitted maximum building height up to the following maximums:

Zoning Districts	Maximum Permitted Building Height	Maximum Building Height Pursuant To Administrative Relief For Mixed Use
MU-CC	45 feet	65 feet
MU-R/EC	65 feet	85 feet

(Ord. 03-157; Ord. 09-74)

**7.3.716: MIXED USE BICYCLE PARKING AND FACILITIES:**  

All MU developments shall provide bicycle facilities to meet the following standards:

- A. Amount: A minimum number of bicycle parking spaces shall be provided, equal to five percent (5%) of the total number of automobile parking spaces provided by the development, but not less than one space.
- B. Location: Bicycle parking facilities shall be located no farther than one hundred feet (100') away from a building entrance, shall be visible from the land uses they serve, and shall not be located in remote automobile parking areas. Facilities shall not be located in places that impede pedestrian or automobile traffic flow or that would cause damage to landscaping.
- C. Design: Spaces for short term bicycle parking shall provide a means for the bicycle frame and one wheel to be attached to a permanent fixture, designed for securing bicycles, by means of a lock.
- D. Off Street Parking Space Credit For Bicycle Parking: Off street parking credit for bicycle parking shall comply with the following standards:
  - 1. When a development site is adjacent to a designated bike route, the City may reduce the required minimum number of off street parking spaces for provision of bicycle parking by one off street vehicle space for every six (6) bicycle spaces, up to a maximum reduction of five percent (5%), and
  - 2. The City may reduce the required minimum number of off street parking spaces by one off street vehicle space for every six (6) bicycle parking spaces, for on site showers/changing rooms, or bicycle lockers, up to a maximum reduction of ten percent (10%). (Ord. 03-157; Ord. 09-74)

**7.3.717: MIXED USE PEDESTRIAN AND BICYCLE ACCESS AND CIRCULATION:**



These standards are intended to ensure a safe and convenient system of well connected pedestrianways and bikeways. These facilities shall be designed to link MU developments with adjacent uses, including residential areas, shopping, employment centers, recreational facilities, open space, parks, transit stops, and schools. Within individual developments, safe and convenient pedestrian and bikeway systems shall be provided that directly connect buildings, parking areas, open space, transit stops, services, on site amenities, and other areas of interest.

A. Applicability: This section is applicable to all development in MU zone districts.

B. General Pedestrian And Bicycle Access And Circulation Standards: All new development shall provide and contribute to an on site system of pedestrian walkways, sidewalks, and bikeways that provide continuous access to all land uses within a development site and to land uses on adjacent properties, according to the following standards. For additional design detail, the City's subdivision policy and public works design manual shall be consulted.

1. Connectivity Standards: All new development shall provide pedestrian and bicycle systems that provide continuous connections with off site destinations according to the following standards:

- a. Safe and convenient bicycle and pedestrian access from the development site shall be provided to existing and designated public bike paths or greenways located on or adjacent to the development site.
- b. Connections shall be made to provide direct pedestrian and bicycle travel from within the development to adjacent uses, transit stops, perimeter sidewalks, and to major pedestrian destinations located within an adjacent neighborhood. Pedestrian access shall be provided by connection to any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the development site. In order to provide efficient pedestrian connections to adjacent destinations, the City may require additional sidewalks, walkways, or bike paths not associated with a street, or the extension of a sidewalk from the end of a cul-de-sac to another street or walkway.
- c. Where an MU Zone District is located adjacent to a signalized street intersection, a pedestrian walkway shall connect the on site pedestrian system with the intersection and shall be connected at a distance of no more than two hundred feet (200') from the intersection. An exception may be granted by the Manager, where there are no existing or planned perimeter sidewalks.
- d. Connections from a perimeter public sidewalk system to the on site sidewalks shall be made at the same block length interval as exists within the development site.

2. Internal Pedestrian Circulation And Connections:

a. Required Connections: Each development shall provide an on site system of pedestrian walkways and/or public sidewalks throughout the zone district. The on site pedestrian circulation system shall provide the most efficient access route between the intended points of travel. Specifically, on site pedestrian connections shall be provided to and between the following points:

- (1) The primary entrance or entrances to each building housing a principal use;
- (2) Existing or planned transit stops, stations, and park and ride locations;
- (3) Greenways or trail systems, where determined appropriate either by the Manager of parks, recreation and cultural services, based on the parks, recreation and trails master plan, or by the Manager, based on the intermodal transportation plan; and
- (4) On site amenities, as provided according to section [7.3.720](#) of this part.

- b. Connections To On Site Parking: All developments served by on site parking in surface lots or parking structures shall provide either a sidewalk along the perimeter of the block or a designated pedestrian walkway through the parking lot, extending from the rows of parking farthest from the building served to either a building entrance or to a sidewalk or walkway leading to such entrance. A minimum of one connecting walkway or sidewalk shall be provided for every four hundred (400) linear feet of vehicle parking area.
- c. Internal Block Face: Where an internal block face exists or is proposed greater than four hundred feet (400'), a pedestrian walkway shall be included through the parking lot, separate from streets, such that the four hundred foot (400') minimum distance between walkways is achieved. Alternative compliance may be allowed as described in subsection [7.3.709C](#) of this part.
- d. Enhanced Drive Aisle: Where an enhanced drive aisle forms the perimeter of a block, sidewalks shall be provided on both sides of the drive aisle.

### 3. Walkway Design:

- a. All on site pedestrian walkways shall have and maintain a minimum unobstructed width of six feet (6'), except that walkways for both pedestrian and bike use shall provide an unobstructed minimum pathway width of twelve feet (12'). Pedestrian walkways through parking areas shall be at least seven feet (7') wide, unless concrete wheel stops, bollards, curbing, landscaping, or other similar improvements are provided that prevent parked vehicles from obstructing the walkway. Pedestrian and bicycle pathways connecting to greenways or trail systems are subject to standards in the City parks, recreation and trails master plan.
  - b. Walkways shall be designed to create a safe and uninterrupted pedestrianway, and shall avoid frequent crossings by driveways or streets. Walkways shall be separated from streets and parking lots by curbs or other means to create physical separation.
4. Pedestrian Pass Throughs: Where a block face is greater than four hundred feet (400'), pedestrian access shall be provided through the block or building(s) at a distance no greater than four hundred feet (400'). The pedestrian pass through must stay open, regardless of whether businesses are open or closed. Alternative compliance may be allowed as described in subsection [7.3.709C](#) of this part. The Manager may waive the requirement for pedestrian pass throughs in cases where there is limited liability for pedestrian access such as adjacency to an expressway or freeway. Alleys and service areas shall not be considered to be pedestrian pass throughs, although alleys may be designed with pedestrian walkways.
5. Sidewalks: All sidewalks adjacent to public or private streets shall be designed and constructed according to the policies, standards, and guidelines stated in the City's subdivision policy and public works design manual. Sidewalks shall be provided on both sides of all streets except alleys.
6. Street Crossings: All pedestrian street crossings shall comply with the applicable policies, standards, and guidelines governing street crossings in MU developments in the City, as stated in the City's subdivision policy and public works design manual. (Ord. 09-74; Ord. 18-23)

## **7.3.718: MIXED USE ACCOMMODATION/INTEGRATION OF PUBLIC TRANSIT ON**

**SITE:**  

This section is intended to ensure that existing and future public transit facilities are incorporated into the design of all new development in MU Zone Districts.

A. General Standards:

1. Areas Designated For Transit Shelters: All development in MU Zone Districts shall include areas designated for transit shelters or transit station locations, as requested by the transit agency and consistent with adopted transportation and transit plans, standards and guidelines, and current local transportation activities.
2. Pedestrian Linkages: All new development in MU Zone Districts shall provide direct pedestrian linkages to existing and proposed transit shelters or facilities located within the development or adjacent to the development, according to this section. (Ord. 09-74)

**7.3.719: MIXED USE VEHICLE ACCESS, CIRCULATION, AND CONNECTIVITY:** 



This section is intended to provide safe, efficient, and convenient vehicular access and circulation for all development in MU Zone Districts, and to ensure that streets in MU Zone Districts have a high level of connectivity, both within the development and with adjacent street systems. Street systems will be designed to accommodate pedestrians, bicycles, and transit facilities, as well as vehicles by providing safe access via entry streets and driveways, circulation and connectivity through internal streets and blocks, connections from internal streets to external streets, and drive aisles for safe and efficient access to parking areas.

A. Applicability: This section is applicable to new development in all MU Zone Districts.

B. Mixed Use Vehicle Access, Circulation, And Connectivity Standards:

1. Street Standards: Vehicle access, circulation, and connectivity for development in all MU Zone Districts shall be governed by the street standards for mixed use centers as set forth in the mixed use development design manual and the subdivision policy and public works design manual.
2. Vehicle Access: Primary vehicle access to MU Zone Districts shall be provided from perimeter arterial streets and from perimeter collector streets. Vehicle access from surrounding residential areas and adjacent neighborhoods shall be provided via perimeter collector streets and adjacent local streets.
3. Cross Access Easements: Within an MU Zone District, cross access easements are required whenever necessary to ensure that adjacent parcels have adequate access to accommodate existing or future ownership patterns.
4. Enhanced Drive Aisles: Where the entire frontage along an internal block face consists of a parking area, an enhanced drive aisle may be utilized in lieu of a street to provide access to the parking area and circulation along the block face. Enhanced drive aisles shall be designed according to the standards and guidelines in the mixed use development design manual.



5. Block Structure: Development in MU zone districts shall be based on a block structure consistent with section [7.3.722](#) of this part in order to provide connectivity both within the mixed use development and with adjacent street systems.
6. Street Connections: Internal streets in MU zone districts shall be aligned to connect with existing or planned external streets of equivalent functional classification in order to create through street connections from mixed use development to adjacent development. Where it is necessary to prevent cut through traffic from entering residential areas, street alignments shall be discontinuous and traffic calming improvements shall be utilized.
7. General Circulation Standard: For all new MU development on sites that are four (4) acres or more in total gross land area, internal circulation shall be provided through an internal street system and multiple blocks.
8. Street System: Internal streets provided according to this section may be public or private. All public and private streets in MU zone districts shall be designed and constructed according to the policies, standards, and guidelines governing street design in MU zone districts in the mixed use development design manual and the subdivision policy and public works design manual. (Ord. 09-74)

### **7.3.720: MIXED USE ON SITE COMMUNITY AMENITIES:**

This section is intended to create outdoor, on site amenities and gathering places. Such amenities and places provide desirable open space, create an inviting image for customers, visitors, and employees, enhance the pedestrian environment and streetscape, offer attractive spaces for people to gather, interact, rest, shop, and eat, and contribute to the character of the City.

- A. Applicability: These standards and guidelines shall apply to development in MU zone districts planned to contain twenty five thousand (25,000) or more square feet of gross floor area.
- B. Provision Of On Site Amenities: All development shall incorporate at least two (2) of the following on site amenities or features as highly visible, easily accessible, outdoor focal points or gathering places for residents, employees, and visitors to the development site:
  1. Patio or plaza with seating areas provided such patio or plaza has a minimum depth and width of ten feet (10'), and a minimum total area of three hundred (300) square feet.
    - a. Asphalt is prohibited as a paver; use of decorative pavers or textured, colored concrete is required.
    - b. Patios and plazas shall include pedestrian amenities intended to support these places as gathering areas.
  2. Landscaped miniparks, squares, or greens, provided such park or green has a minimum depth and width of ten feet (10') and a minimum total area of six hundred fifty (650) square feet, and shall include pedestrian amenities intended to support these places as gathering areas.
  3. Protected customer walkways, arcades, or easily identifiable building pass throughs containing window displays and intended for general public access.

4. Water feature, such as a lake, pond, or fountain, provided the feature is easily accessed by pedestrians and includes or integrates seating areas for pedestrians.
5. Outdoor public art in an area that is:
  - a. Visible from an adjacent public sidewalk or street, and
  - b. Easily accessed for viewing by pedestrians.
6. Any other, well designed area and/or focal feature that the Manager finds is consistent with the intent of this subsection B, substantially enhances the development and serves as a gathering place for residents, visitors, customers, and employees.

C. Buildings Adjacent To Outdoor Amenities Standards: Pedestrian use of on site outdoor amenities shall be enhanced by the provision of security. Accordingly, when a building will be adjacent to a pedestrian plaza, patio, minipark, square or green as provided under this section, the building wall facing such outdoor amenity shall contain at least one of the following elements:

1. A building entry;
2. Windows facing onto the outdoor amenity;
3. Arcades along the edges of the outdoor amenity;
4. Outdoor seating areas; or
5. A similar feature that the Manager finds will bolster security and encourage pedestrian use of the outdoor amenity.

D. Maintenance: The property owner(s) shall be responsible for the continued maintenance and repair of all on site amenities provided according to this section. (Ord. 09-74)

### **7.3.721: MIXED USE TRANSITIONS:**

This section is intended to provide for land use tools to mitigate possible conflicts between land uses of varying intensities and differing character.

A. Applicability: This section shall apply to all development in MU zone districts where either of the following occurs:

1. Development of a more intensive land use adjacent to an existing, planned or zoned less intensive land use, either inside or outside the MU zone district boundary. The Manager shall have the authority to make a final determination regarding relative intensity of adjacent land uses, taking into consideration, at a minimum, the relative size, design, operations and traffic generation patterns of the adjacent land uses; or
2. Establishment of visual impacts, uses or activities on a development site that, as determined by the Manager, could reasonably be regarded as a nuisance for neighbors.

B. Transition Tools: When a transition tool is required in an MU zone district, an applicant shall incorporate site and building transition tools, green/open space transition tools, and transition uses before using landscape buffers or screens.

The following are approaches, methods and techniques that are permitted transition tools under this section:

1. Site and building transition tools, including, but not limited to, building setbacks as established by surrounding development, building placement and orientation as established by surrounding development, similar building height, similar building width, similar roof form, similar building materials, and facade articulation;
2. Green/open space transition tools, including, but not limited to, the use of courts, squares, parks and plazas, and use of natural features such as topography, waterways, and existing stands of trees;
3. Transition uses and other community serving uses as transitions, such as, but not limited to, the transition uses cited in section [7.3.710](#) of this part, and siting lesser intensive uses at the perimeter of the MU zone district;
4. Parkways, streets and streetscapes;
5. Operational standards, including, but not limited to, those cited in subsection C of this section; and
6. Landscape buffers and screens.

C. Operational Standards: The Manager may impose conditions upon the approval of rezoning and other discretionary development actions to ensure that development in an MU zone district will be compatible with existing and planned neighborhoods and uses, including, but not limited to, conditions regarding the following:

1. The availability or ability to develop specific uses otherwise allowed by section [7.3.203](#) of this article;
2. Hours of operation;
3. Hours of deliveries and other similar uses;
4. Location, intensity and hours of operation of exterior lighting, including security lighting;
5. Placement of trash receptacles;
6. Amplification of music in a place of entertainment;
7. Location of delivery and loading zones; and
8. Placement and illumination of outdoor vending machines. (Ord. 09-74)

**7.3.722: MIXED USE SITE AND BUILDING DESIGN:**  

This section is intended to provide pedestrian oriented development by establishing well defined pattern of walkable blocks and intersecting streets, by ensuring that building facades and streetscapes are designed to be human scaled and pedestrian friendly, by ensuring that buildings relate appropriately to surrounding development, by creating a heightened sense of place, by providing safe, efficient and convenient vehicular access and circulation patterns, and by promoting pedestrian friendly new development in MU zone districts.

A. Applicability: This section shall apply to new development in MU zone districts.

B. Block Standards: Block standards shall apply to all development that contains four (4) acres or more of gross land area.

1. All development shall be arranged in a pattern of interconnecting streets and blocks, while maintaining respect for the natural landscape and floodplain.
2. Each block face shall range between a minimum of two hundred feet (200') and a maximum of six hundred feet (600').
3. The average block face across each development site and the entire MU zone district shall be a maximum of five hundred feet (500').
4. For block faces that exceed four hundred feet (400'), a mid block pedestrian pass through shall be provided connecting opposite sides of block faces.
5. An applicant may submit alternative block standards, provided that such alternative achieves the intent of the above standards and the procedures and criteria of subsection [7.3.709C](#) of this part.

C. Building Entrance Orientation: All buildings shall have at least one building entrance oriented toward an abutting internal or perimeter street with on street parking, or toward an on site pedestrian walkway connected to a public sidewalk.

D. Site Design For Multiple Building Developments: All buildings shall be arranged and grouped so that their primary orientation complements adjacent, existing development, as applicable, and is consistent with one of the following site layouts:

1. Buildings orient toward, frame and enclose a main pedestrian and/or vehicle access corridor within the development site, including an entry/spine street; or
2. Buildings orient toward, frame and enclose, on at least three (3) sides, parking areas, public spaces or other on site amenities; or
3. Buildings orient toward and frame the corner of a perimeter or internal street intersection; or
4. Buildings orient toward adjoining development, respecting adjoining exterior street alignment(s) that frame and enclose on at least three (3) sides parking areas, public spaces or other on site amenities.

5. An applicant may submit an alternative site layout and building orientation pattern, provided such pattern achieves the intent of the above standards and this section. Strictly linear or strip commercial development patterns are prohibited.

#### E. Building And Streetscape Design:

1. Building Design: All building facades that face a public street other than an alley, or face a plaza or other public space, or contain the building's primary customer or user entrance, shall be designed according to the following standards. As applicable, such features shall be applied, at a minimum, to the first fifteen (15) vertical feet of building facade.
  - a. For every thirty feet (30') of building facade length, the building shall incorporate modulated and articulated building wall planes through use of:
    - (1) Projections, recesses and reveals expressing structural bays or other aspects of the facade, with a minimum change of plane of six inches (6"); and
    - (2) Changes in color or graphical patterns, changes in texture, or changes in building material.
  - b. A continuous pedestrian walkway extending across the full length of the building facade shall be provided. Walkways shall be at least six feet (6') wide.
2. Building Entrance Design: The primary public entry to the building shall be clearly defined, and building entrances shall incorporate elements that provide shade from the sun and weather protection for pedestrians. (Ord. 09-74)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): Prior ordinance history: Ord. 03-157; Ord. 06-162.

## PART 8 FORM-BASED ZONE DISTRICT (FBZ)

[7.3.801: PURPOSE:](#)

[7.3.802: REQUIREMENTS:](#)

[7.3.803: ESTABLISHMENT AND DEVELOPMENT OF AN FBZ DISTRICT AND RELATIONSHIP TO OTHER CITY REGULATIONS:](#)

[7.3.804: ESTABLISHMENT OF THE FORM, MIX AND INTENSITY OF LAND USES:](#)

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[7.3.806: REVIEW CRITERIA FOR FBZ REGULATING PLANS:](#)

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**7.3.813: DEVELOPMENT AGREEMENTS:**  
**7.3.814: INCENTIVES IN THE FORM-BASED ZONE DISTRICTS:**

**7.3.801: PURPOSE:**   

The purpose of the form-based zone district ("FBZ") is:

- A. To implement the Comprehensive Plan of the City of Colorado Springs by promoting development that is characterized by a sustainable, efficient and adaptable urban form in areas which have had, or will have, the benefit of detailed context sensitive public planning process.
  
- B. To provide a method of regulating development to achieve a specific physical urban form, and address how buildings relate to the public realm with a lesser focus on the predictability and regulation of particular land uses.
  
- C. To provide a zoning option which allows for and accommodates the changing uses of buildings, while maintaining the integrity and viability of the public realm, with an emphasis on intermodal transportation options and pedestrian linkages and orientation.
  
- D. To encourage flexibility, innovation of design and a variety of development types that will improve the quality of physical development over that normally achieved through the application of the City's standard single use zones, and when the planned unit development (PUD) and/or mixed use (MU) zoning options are determined not to be the better options for providing the desired flexibility and innovation. (Ord. 09-50)

**7.3.802: REQUIREMENTS:**   

- A. The allowable urban form and the treatment of the public realm define the FBZ district. Uses allowed in this zone are determined at the time of approval or amendment of an FBZ regulating plan. Development standards are determined by the FBZ regulating plan, the development plan and a development agreement if applicable.
  
- B. The requirements of an FBZ district are specific and prescriptive and are not intended to be design guidelines. The specificity of the requirements provides certainty for applicant neighborhoods and City staff. The minimum standards of the requirements imposed by an FBZ regulating plan are not intended to limit design creativity or adaptation to unique site or neighborhood conditions. (Ord. 09-50)

**7.3.803: ESTABLISHMENT AND DEVELOPMENT OF AN FBZ DISTRICT AND  
RELATIONSHIP TO OTHER CITY REGULATIONS:**   

- A. An FBZ district may be established upon any tract of land provided the application for the establishment of the zone district is accompanied by an FBZ regulating plan covering the entire zone district that conforms to, and complies with the provisions of this part.

1. An application for FBZ zoning may be initiated by City Council, the Planning Commission, the Manager or the Historic Preservation Board in accord with section [7.5.602](#) of this chapter, or initiated by the property owners representing no less than fifty percent (50%) of the total non-City owned acreage within the proposed FBZ district.
  2. Unless a variance is approved in accord with article 5, part 8 of this chapter the minimum required area to which an FBZ district may be applied shall be either fifty (50) acres or five hundred thousand (500,000) square feet of existing and/or planned building area. Such minimum zone areas shall be contiguous with the exception of intervening public streets, utility corridors or publicly owned drainageways. The standard for consideration of a variance shall be general conformity with the purposes of the FBZ district, and/or that the allowance of a smaller zone district area will result in unique public benefits which could not otherwise be obtained through the use of an alternate zoning designation. There is no minimum requirement for subsequent additions of property to an existing FBZ area.
  3. Notices, hearing and appeals related to the establishment of an FBZ district shall be in accord with article 5, part 9 of this chapter. In addition, notification letters should be mailed to all property owners within the area proposed to be rezoned to FBZ unless one hundred percent (100%) of the owners have signed the rezoning petition.
- B. Approval of an FBZ regulating plan for an area establishes a new base zoning for that area but does not remove any previously approved overlay zones unless a discrete formal action is taken to remove one or more of these overlay districts from all or part of the area governed by the FBZ regulating plan. Similarly, the establishment of FBZ zoning on a property does not in any way preclude the future inclusion of all or part of the area in an overlay district.
- C. An FBZ regulating plan shall not be approved to establish an FBZ zoning district in the absence of a legislatively adopted master plan which encompasses the area to be zoned to the FBZ district. This master plan may be publicly, privately or collaboratively initiated, but shall, at a minimum provide sufficient community vision, context, information and direction to support the establishment of the FBZ district. The master plan may previously exist or be adopted concurrently with the FBZ zoning application.
- D. Pursuant to section [7.5.502](#) of this chapter, an FBZ development plan is required before any building permits may be issued within an FBZ district, subject to the exceptions allowed in subsection [7.5.502C](#) of this chapter. The review criteria for approval of the FBZ regulating plan and the FBZ development plan are intended to be flexible to allow for innovative, efficient, and compatible urban form and land uses.
- E. An approved FBZ regulating plan may modify or change zoning or development standards and requirements found in article 2, 3, 4 or 5 of this chapter. Where the zoning or development standards or requirements established in an FBZ regulating plan differ from this Code, the provisions of the FBZ regulating plan shall apply. Where the FBZ regulating plan does not substantively address article 2, 3, 4 or 5 and any other applicable elements of this chapter, this chapter shall continue to apply.

- F. In areas subject to an approved FBZ regulating plan, an application for any other zone district shall not be approved until the FBZ regulating plan for the applicable FBZ district has been comprehensively reviewed and amended to address the impact of removing the FBZ designation from the property.
- G. The City's subdivision regulations ([article 7 of this chapter](#)) shall apply to areas within an FBZ regulating plan, subject to any specific modifications which are specifically approved as part of the FBZ regulating plan, and the options for waiver or modification otherwise available in this Code.
- H. Except to the extent a development plan in an FBZ district is vested under [article 9 of this chapter](#), the City has the authority, after the appropriate public hearings, to either rezone any property from FBZ to another zone district or to amend an existing FBZ regulating plan.
- I. The FBZ regulating plan may establish alternatives, standards, thresholds, procedures and criteria for waiver, modification or variance from use related and nonuse related standards and requirements of an FBZ district. In cases where the FBZ regulating plan does not address topic related waivers, modifications or variances, the applicable section of the Zoning Code shall govern.
- J. In the event a review board with decision making authority is established in conjunction with an FBZ Zone District, any decision of this board shall ultimately be appealable to City Council. (Ord. 09-50; Ord. 09-80; Ord. 09-88)

### **7.3.804: ESTABLISHMENT OF THE FORM, MIX AND INTENSITY OF LAND USES:**



The form and intensity of all buildings (including dimensional requirements) shall be established during review and approval of the FBZ regulating plan. Additionally, the FBZ regulating plan shall establish detailed requirements governing the relationships between all buildings and the public realm and shall identify any limitations to the land use types or land use mix allowed in the district. Uses identified in the regulating plan shall be permitted. (Ord. 09-50)

### **7.3.805: FBZ REGULATING PLAN REQUIREMENTS:**



An FBZ regulating plan is a representation of the proposed development of land, together with a written narrative and graphic characterization. An FBZ regulating plan shall consist of a unified document which includes the following:

- A. Boundaries, acreage and description of the area to be rezoned.
1. Textual and legal description of the area;
  2. Location of areas with unique or significant natural features and areas with natural conditions that constrain development (e.g., floodway/floodplains, severe geologic hazard conditions, no build areas);



3. Locations of existing and proposed major public streets and transit facilities;

B. Correlation with a legislatively adopted master plan;

C. Authority, applicability and purpose for the proposed district;

D. Description of any subareas, transects or sectors;

E. Building form standards that clearly describe and regulate the allowable building types and forms related to height, scale, potential use, placement on blocks, lots or parcels, frontage on public streets, setbacks, fenestration and servicing and loading, including:

1. Illustrations and descriptive information shall be provided to adequately support implementation of the standards;
2. Building form standards shall be provided for each subarea, transect or sector where standards are proposed to vary, with minimum and maximum standards, if applicable;
3. Building form standards shall stipulate which building types are permitted, prohibited or allowed by conditional approval;
4. Building form standards shall stipulate which dimensional standards may be waived, and under what criteria and process;

F. Public space standards which clearly describe and regulate the public realm and the relationship of buildings to it, to include access, street types with cross sections, multimodal transportation facilities and linkages, sidewalk widths, requirements for on and off street parking, treatment of parking facilities, parks, open space and public plazas, streetscape requirements, landscaping, alleys, utility locations and loading areas, encroachment into public spaces, on and off premises signage, street and/or building lighting, walls and fences, and any other relevant requirements which would enhance the public realm.

1. Illustrations and descriptive information shall be provided to adequately support implementation of the standards;
2. Public space standards shall be provided for each by subarea or sector where standards are proposed to vary, if applicable;
3. Public space standards shall stipulate which standards may be waived, and under what criteria and process;
4. Block standards governing minimum and/or maximum block dimensions shall be provided unless this requirement is waived based on a unique justification;

5. The FBZ regulating plan should include a detailed description of the pedestrian realm, and how pedestrian connections will be provided to building entrances, as well as from parking area to buildings;
  6. Utility facilities and parking should be located on private property and screened from the public realm except in the case of unique circumstances;
- G. Listing of those uses that will be prohibited or which require conditional or other specific approval;
- H. Listing of all specific subdivision requirements in [article 7 of this chapter](#) that are proposed to be modified or waived as part of the FBZ regulating plan;
- I. Listing of any standards and/or development requirements that may be exceeded in exchange for provision of incentives, along with a listing of, and standards for eligible incentives, if applicable;
- J. Glossary of specific terms used in the FBZ regulating plan;
- K. Administrative procedures, with cross references to the City Code as applicable. If a review board is proposed in conjunction with the FBZ District, the FBZ regulating plan shall establish clear approval authority, responsibilities and procedures for this board. (Ord. 09-50; Ord. 09-88; Ord. 12-24)

### **7.3.806: REVIEW CRITERIA FOR FBZ REGULATING PLANS:**

Substantial compliance with the criteria is necessary for the approval of the FBZ regulating plan. The Manager may determine that certain criteria are not applicable based on the characteristics of the individual project. The FBZ regulating plan shall be reviewed based on the following review criteria:

- A. Is the proposed development pattern consistent with the Comprehensive Plan and all applicable elements of the Comprehensive Plan (including the intermodal transportation plan and the parks, recreation and trails master plan)?
- B. Is the proposed plan for building form and function and the potential for variable building uses consistent with the Comprehensive Plan, as amended?
- C. Has a detailed context sensitive land use plan been prepared for the area based on an inclusive stakeholder and public process that includes visioning, and does the FBZ regulating plan substantially conform to that plan?
- D. Is the proposed FBZ regulating plan consistent with any other City approved master plan that applies to the area to be rezoned, and/or with any adopted urban renewal plan if applicable?

- E. Is the proposed FBZ regulating plan otherwise consistent with the intent and purposes of this Zoning Code, and, is the FBZ regulating plan consistent with any applicable overlay districts, which are proposed to remain?
- F. Does the development pattern proposed within the FBZ regulating plan promote the stabilization, revitalization and/or preservation of the existing or planned land uses and/or structures both within the FBZ Zone area and in adjacent areas and surrounding residential neighborhoods?
- G. Does the FBZ regulating plan support and promote sustainable residential neighborhoods either within or in close proximity to the FBZ Zone area?
- H. Does the nonresidential development pattern proposed within the FBZ regulating plan promote an integrated activity center?
- I. Does the FBZ regulating plan provide adequate mitigation for any potentially detrimental use-to-use or form based adjacency relationships (e.g., commercial use adjacent to single-family homes or large building masses adjacent to low density and low rise development)?
- J. Does the development pattern proposed within the FBZ regulating plan provide an appropriate transition or buffering between building types of differing intensities both on site and off site?
- K. Does the FBZ regulating plan accommodate vehicle, pedestrian, bicycle and transit modes of transportation in a manner that reduces the potential for aggregate vehicle miles traveled?
- L. Does the FBZ regulating plan include a logical hierarchy of perimeter and internal streets, as well as transit and nonmotorized facilities and connections that will disperse development generated vehicular traffic to a variety of access points and ways, reduce through traffic in adjacent residential neighborhoods and improve resident access to jobs, transit, shopping and recreation?
- M. Will streets, drives and nonmotorized linkages within the FBZ District be connected to streets outside the project area in a way that minimizes significant through traffic impacts on adjacent residential neighborhoods, but still improves connectivity, mobility choices and access to jobs, shopping and recreation?
- N. Will the FBZ District have a strong pedestrian orientation with building design which is in scale to the pedestrian?
- O. Does the FBZ regulating plan provide safe, convenient, integrated, maintainable and enhanced public realm throughout the district area?

- P. Will parking areas be designed and located to provide safe and convenient access, and to avoid excessive parking ratios and avoid excessive expenses of pavement?
  
- Q. Are parks, open spaces and other public spaces integrated into the FBZ regulating plan to serve both as amenities to residents/businesses/users and as a means for alternative transportation modes, such as walking and biking?
  
- R. Will the allowed maximum land uses and densities overburden the capacities of existing or planned streets, public safety services, utilities and other public facilities?
  
- S. Are areas with unique or significant natural features preserved and incorporated into the design of the zone district and are natural hazard areas properly planned for and mitigated?
  
- T. Does the FBZ regulating plan adequately address visual impacts, exposure to light and air and view protection especially concerning views to and from the public realm?
  
- U. Do the allowances, standards and requirements of the FBZ regulating plan allow for or promote options for green building and energy efficiency?
  
- V. Does the FBZ regulating plan include sufficient administrative language and procedures to allow it to be effectively implemented in conjunction with the Zoning Code?
  
- W. If a review board is being proposed, are the responsibilities of this board and its procedures clearly articulated, and are these consistent with the intent of the FBZ regulating plan? (Ord. 09-50; Ord. 09-80; Ord. 09-88; Ord. 19-3)

**7.3.807: REVIEW CRITERIA FOR FBZ DEVELOPMENT PLAN:**  

A development plan for land within an FBZ District shall be approved if it substantially conforms to the approved FBZ regulating plan and the FBZ development plan review criteria listed below. An application for a development plan shall be submitted in accord with requirements outlined in article 5, parts 2 and 5 of this chapter. Unless otherwise specified by a development agreement, the project shall be vested by the development plan in accord with section [7.9.101](#) and subsections [7.5.504](#)C1b and C2 of this chapter.

- A. Is the proposed FBZ development consistent with the adopted FBZ regulating plan for the FBZ District?
  
- B. Does the FBZ development plan conform to the requirements of section [7.5.502](#) of this chapter and satisfactorily address the review criteria contained in that section, or as these criteria may be augmented or modified by the FBZ regulating plan?

C. Does the landscape design comply with the FBZ regulating plan? The use of native vegetation or drought resistant species including grasses is encouraged. (Ord. 09-50)

### **7.3.808: MAINTENANCE OF COMMON AREAS:**

The provision of a property owners' association or other acceptable maintenance entity is required to guarantee maintenance of common areas, project landscape, parking, drive aisles, fencing and building exteriors, public art and emergency access points, where maintenance is not otherwise to be provided by the City or another entity such as a title 32 special district, a business improvement district, and urban renewal authority or a downtown development authority. (Ord. 09-50)

### **7.3.809: FBZ REGULATING PLAN AND DEVELOPMENT PLAN AMENDMENTS:**



A. Amendments To FBZ Regulating Plans: Amendments to FBZ regulating plans may consist of additions or deletions of properties included in the FBZ District area, reclassification of properties to different sectors, transects or subareas within an FBZ regulating plan or modifications of standards and requirements in the FBZ regulating plan.

All applications for additions or deletions of property to/from an FBZ District, and any amendments of the FBZ regulating plan including the reclassification of properties or modification of the requirements and standards within the plan shall be in accord with article 5, part 6 of this chapter and shall require Planning Commission and City Council approval.

Where an approved FBZ regulating plan describes alternative procedures allowing recommendations from a City Council appointed review board to be forwarded directly to City Council, Planning Commission action is unnecessary.

B. Amendments To Development Plans In An FBZ District: All amendments to development plans shall be processed in accord with the provisions of subsection [7.5.503C](#) of this chapter. (Ord. 09-50; Ord. 09-88; Ord. 12-24)

### **7.3.810: AMENITIES IN PHASED PROJECTS:**

Open space, recreational facilities or other amenities to be provided shall require financial assurance. Suitable assurances may be in the form of a letter of credit, escrow or recorded agreements by the mortgage holder or owner guaranteeing the development of the collective facilities. Financial securities shall not be required if:

A. Acceptable provisions are included within a development agreement that guarantees the provision of these amenities in a timely manner.

B. Amenities are included in each construction phase of the project adequate to serve the residents and/or users within the phase. (Ord. 09-50)

### **7.3.811: SUBDIVISION AND PUBLIC IMPROVEMENTS:**

- A. No subdivision of the FBZ District shall be approved nor any building permits issued until a development plan is approved for the entire area of land proposed to be included within the subdivision plat. This does not preclude the platting of the entire FBZ Zone District as one lot prior to the approval of a development plan. The FBZ development plan may be used in lieu of a preliminary plat.
- B. Requirements for public improvements within an FBZ District, including off site public improvements shall be established and obligated in conjunction with the subdivision platting and/or development plan processes. (Ord. 09-50)

**7.3.812: WAIVER OR MODIFICATION OF SUBDIVISION CODE REQUIREMENTS:**



Requirements of the Subdivision Code related to width and right-of-way of streets, access and alleyways, requirements for or placement of curb, gutter or sidewalks, requirements for streetlights and storm drainage treatment may be waived or modified by a City Council appointed review board or the Planning Commission in accord with the applicable FBZ regulating plan or this chapter based on furthering the intent of the regulating plan or a development plan approved pursuant to it. Criteria to be considered as justification for a waiver include one or more of the following:

- A. Does the waiver result in preservation of natural features?
- B. Does the waiver result in the provision of a more livable environment, such as the installment of street furniture, decorative street lighting or decorative paving materials?
- C. Does the waiver result in the provision of a more efficient pedestrian system?
- D. Will additional open space be provided as a result of the waiver?
- E. Will the waiver result in the provision of other public amenities not otherwise required by City standards?

If a waiver or modification based on an FBZ regulating plan or development plan has been approved, the waiver or modification shall also apply at time of platting. (Ord. 09-50; Ord. 12-24)

**7.3.813: DEVELOPMENT AGREEMENTS:**



- A. Definition: For the purposes of this section a "development agreement" is a negotiated contract between the City and a single developer or group of developers of property within an FBZ district for which an FBZ development plan has been approved. The Manager is authorized to negotiate the terms and conditions of a development agreement for the City in conformity with the general provisions and guidelines of this section, subject to the recommendation of a City Council appointed review board or Planning Commission and the approval of City Council.

B. Application, Contents, Limitations, Terms And Conditions, Approval, Amendment And Assignment: The owner or developer of FBZ zoned property may request a development agreement at the time of the initial development plan application or at any time thereafter. A development agreement application within any established FBZ district in an area without a development plan or with an expired development plan shall include a development plan with the application. Application shall be made on forms provided by the City and shall be accompanied by the specified application fees. The requirements, standards and procedures governing the application, contents, terms and conditions, approval, amendment and assignment are the same as contained in article 9, part 2 of this chapter. (Ord. 09-50; Ord. 09-80; Ord. 12-24)

### **7.3.814: INCENTIVES IN THE FORM BASED ZONE DISTRICTS:**

Regulatory incentives may be provided in the FBZ zoning districts to encourage and facilitate creative form based development. Following is a summary of the incentives which may be provided with a cross reference to the applicable Zoning Code sections:

A. Inherent Flexibility: The FBZ district option provides inherent flexibility at the point of creation and adoption of the FBZ regulating plan. Development standards, prohibited and allowed uses and parking standards may be adopted to be permissive and not limiting, provided that this flexibility still results in implementation of the overall form based objectives of the FBZ regulating plan.

B. Staff Authority: Broader application of staff authority to grant administrative relief from specified development and design standards.

C. Alternative Compliance: An applicant may propose alternative compliance to the strict application of design standards, such that the alternative:

1. Achieves the intent of the subject design standard to the same or better degree than the subject standard; and
2. Achieves the goals and policies in the Comprehensive Plan to the same or better degree than the subject standard; and
3. Results in equivalent or better benefits to the community as compliance with the subject design standard.

The procedures and criteria for alternative compliance are established in the applicable FBZ regulating plan.

D. Longer Vesting Of Property Rights: Longer vesting of property rights may be allowed in conjunction with an approved development plan. (Ord. 09-50)

## **PART 9 TRADITIONAL NEIGHBORHOOD DEVELOPMENT**

**7.3.901: PURPOSE:**

**7.3.902: PRINCIPLES OF TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND):**

**7.3.903: DEFINITIONS:**

**7.3.904: TND POLICY MANUAL:**

**7.3.905: PROCESS FOR THE ESTABLISHMENT OF A TND ZONE:**

**7.3.906: LAND USE:**

**7.3.907: ARCHITECTURE AND DESIGN:**

**7.3.908: STREETScape:**

**7.3.909: STREETS:**

**7.3.901: PURPOSE:**  

The purpose of the Traditional Neighborhood Development (TND) Zone is to create a residential zoning classification that encourages a pattern of neighborhood development that was commonly built in Colorado Springs prior to World War II. These neighborhoods are characterized by a diversity of housing types integrated with neighborhood schools, parks, civic spaces and commercial uses. This traditional pattern is based on a pedestrian environment that is more people friendly than auto oriented and incorporates attractive streetscapes. Parks and open space form a network of outdoor amenities that provide for recreation, natural area preservation and pedestrian and bicycle transportation. Building design is architecturally distinctive, enhancing the streetscape and creating a definitive character for the neighborhood. Street and walkway connectivity is to be achieved through a traditional block pattern, or a reasonable equivalent. Overall, the TND Zone is intended to promote the development of a neighborhood with a sense of place. It also embodies many of the objectives included in the City's Comprehensive Plan. (Ord. 12-69)

**7.3.902: PRINCIPLES OF TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND):**



The following principles are the primary concepts under which the TND zoning standards and requirements are organized. These principles are related to land use, architecture and design, streetscape and streets, as follows:

- A. Land Use: Residential use is the basic building block of the TND neighborhood. TNDs usually display a diversity of residential types, styles and densities. The diversity in housing type is important in order to provide a variety of choices to a wide range of households. Opportunities also exist for live/work spaces and accessory dwelling units. Small projects may be comprised primarily of single-family dwellings, while larger TNDs may consist of higher density, multi-story development with commercial uses in a neighborhood center. Parks and open space are key elements, providing nonmotorized transportation opportunities and amenity areas.
  
- B. Architecture And Design: Buildings define the streetscape by creating a vibrant, more attractive street frontage. Build-to lines bring buildings close to the street in mixed use neighborhood centers. Front porches and garages accessed from an alley are usually the standard in residential areas. Parking for businesses and homes is primarily located behind buildings. Where parking for businesses is provided adjacent to the street, it is subordinate to the buildings and is screened by walls or plantings. Vehicular access to parking lots is through alleys or driveways to shared parking lots.



- C. Streetscape: Streetscape design plays a key role in defining the community image. The TND streetscape relates to the street and consists of landscaped tree lawns between curbs and sidewalks, the adjacent sidewalks, front yard spaces, and the building frontages. In addition to accommodating transportation needs, the streetscape provides a public and semipublic space for street trees, street furniture and view corridors. Contributions to a traditional streetscape include the design of buildings and parking, and the connected network of streets, alleys and sidewalks. These are all planned together to create a pleasant, as well as a safe and efficient, experience for residents, pedestrians, bicycles, transit and motorized vehicles.
- D. Streets: TND roadways, as well as pedestrianways, are interconnected so that access for pedestrians, cyclists and automobile drivers is direct and convenient. This allows traffic to be dispersed through a variety of streets and ways, so that the need for multiple collector and arterial streets is alleviated. Utilities are similarly interconnected with proper spacing and separation. Narrower streets designed with TND characteristics result in slower moving traffic and provide a safer, more pleasant pedestrian environment. The residential streets in particular place at least as much attention to the people who live next to the street as on the vehicles that travel them. TND streets also encourage interaction among business people and residents. (Ord. 12-69)

### **7.3.903: DEFINITIONS:**

These definitions are specific in application to TNDs only.

**ACTIVITY AREA:** A space within the neighborhood that is used for recreation, gatherings, civic uses or neighborhood services such as a neighborhood center with retail and service commercial uses.

**CIVIC USE IN TND:** An activity involving civic use types as defined in this Zoning Code with the exception of the following, which are excluded from a TND: private clubs that do not allow public membership, crematory, detention facilities, maintenance and service facility. The purpose of a civic use in a TND is to provide a neighborhood serving space as an amenity.

**FOCAL POINT:** A visual landmark. It commonly identifies the neighborhood center and contributes to establishing the character of the development. The focal point may be a statue, a plaza, a pavilion or some other structure or focused area that defines the heart or center of a development.

**LANDSCAPED MEDIAN:** That raised portion of a TND avenue, boulevard or parkway located between opposing flows of vehicular traffic and landscaped to standards of the City's Parks, Recreation and Cultural Services Department and the Public Works Department.

**MONOLITHIC:** A structure that is uniform or massive in character and has little in the way of human scale design or building articulation.

**NEIGHBORHOOD CENTER OR CORE:** A higher density and intensity area, commonly with commercial land use, within walking distance of the surrounding residential neighborhoods. This area usually has land uses that provide services to the surrounding residences, including eating and drinking establishments, retail commercial and civic uses. There may also be buildings designed for light manufacturing, employment and mixed uses.

**NEIGHBORHOOD PARKS:** A recreational tract oriented to all age groups but having less emphasis on the development of structured, heavily programmed facilities. It is often located adjacent to

elementary schools for the sharing of playground facilities. The City intends to provide two and one-half (2.5) acres per every one thousand (1,000) residents in these types of parks.

- A. Small: 0.25 through 3.49 acre sites designed to serve homes within 0.25 mile of the park. They should have street frontage. Facilities typically are sodded areas for informal play, playground equipment and picnic facilities.
  
- B. Traditional: 3.5 through 20 acres in size, designed for the surrounding neighborhood within 0.5 mile radius. Often accessible by streets on one or two (2) sides. Facilities and improvements typically found are playground equipment, basketball courts, landscaping, picnic areas and informal fields.

**OPEN SPACE WITHIN A TND ZONE DISTRICT:** Open space shall be formative rather than residual, and must be comprised of land with significant features, either natural, recreational, aesthetic or cultural, that warrants permanent preservation. Open space is incorporated into the development as character defining area, and land that is "left over" (i.e., not considered appropriate for development of buildings) with no recreational usefulness, or is in narrow linear strips along roadways, is not considered open space for the purposes of being counted toward the minimum level of open space/parks provided as required in the TND Zone.

**PASSIVE RECREATION USE:** Uses that do not require a structured program or developed facility such as a ball field. These uses involve such activities as hiking and bicycling on trails, picnicking, playground equipment use.

**QUEUING AREA:** An area within a street where parking is prohibited in order to allow cars to pass or for emergency vehicle use.

**VISTA TERMINATION:** The terminus of a street or open space/park that is occupied by an important building or other memorable structure or view, that "anchors" the end of the street or open space/park. (Ord. 12-69; Ord. 18-23)

### **7.3.904: TND POLICY MANUAL:**

The Community Development Department is authorized to adopt a TND policy manual containing guidelines and illustrations which provide information on how best to comply with and design according to the purposes and standards found in this part. (Ord. 12-69)

### **7.3.905: PROCESS FOR THE ESTABLISHMENT OF A TND ZONE:**

The City encourages the development of traditional neighborhoods. Consequently, the City has developed standards to be used in the development of these neighborhoods. This section describes the process to be followed when establishing a TND Zone.

An application for initial zoning or a change of zone to TND is required. A minimum size of two (2) acres is needed to establish a TND Zone. Along with a change of zoning application, a proposed TND concept plan or a proposed TND development plan that includes the entire zone district is required. The requirement for a TND concept plan is waived if a complete TND development plan for the entire zone district is submitted. Any TND concept plan or TND development plan shall include, in addition to the other applicable Zoning Code requirements, land uses as identified in the land use chart, maximum heights and location of streets, utilities and pedestrianways.

A. TND Concept Plan:

1. TND Concept Plan Approval Requirements: A TND concept plan shall be approved if it substantially meets the Comprehensive Plan goals, objectives and strategies, the purpose of the TND Zone District, the general concept plan review criteria listed in section [7.5.501](#) of this chapter and the review criteria listed in subsection A2 of this section. Amendments to a concept plan shall be processed in accord with section [7.5.503](#) of this chapter.

2. TND Concept Plan Review Criteria: The TND concept plan shall:

- a. Demonstrate that the land use chart, and land use design standards are met, and land use design guidelines are considered;
- b. Identify street types and show how the street, pedestrian, transit and bicycle circulation system are interconnected so that access for all modes of transportation is direct and convenient;
- c. Show the general location of the utility distribution and connection system;
- d. Identify how outdoor lighting and signage will be applied throughout the project;
- e. Include a statement of building design intent, which may include illustrations, defining height, massing, scale, materials, repetition of architectural features, window and door fenestration and roof treatments, or actual elevations. This is intended to ensure common theme(s) is applied throughout the project; and
- f. Identify phases of development.

B. TND Development Plan:

1. TND Development Plan Approval Requirements: Any property in a TND Zone shall be a part of an approved TND development plan before a building permit may be issued for that property. A TND development plan shall be approved if it substantially meets the Comprehensive Plan goals, objectives and strategies, the purpose of the TND Zone District, the TND concept plan, the specific development plan review criteria listed in section [7.5.502](#) of this chapter and the review criteria listed in subsection B2 of this section. The TND development plan may be filed for the entire TND Zone or for a portion of the area depicted on the TND concept plan.

2. TND Development Plan Review Criteria: The TND development plan shall:

- a. Demonstrate that the land use chart, and the land use design standards are met, and the land use guidelines are considered;
- b. Demonstrate how the architecture and design standards are met, and the architecture and design guidelines are considered;
- c. Demonstrate how the streetscape design standards are met and streetscape design guidelines are considered;
- d. Demonstrate how the street, pedestrian, transit and bicycle circulation system are interconnected and the street standards are met and street guidelines are considered;

- e. Demonstrate how fire access and protection provisions are addressed, including fire protection aspects of street standards;
- f. Include a statement of design intent, which may include illustrations, defining height, massing, scale, materials, repetition of architectural features, window and door fenestration and roof treatments, or actual elevations;
- g. Be accompanied by elevation drawings for multi-family, and nonresidential uses;
- h. Identify build-to lines and setbacks for all structures;
- i. Identify a permanent funding and maintenance mechanism, such as a property owners' association, for any privately owned common areas, common area improvements, private streets or sidewalks, private rights-of-way or utilities, or private parks or open space. Participation in the funding mechanism by all property owners shall be required and shall be referenced in all deeds. The funding mechanism shall, at a minimum, provide for State and local tax liabilities, insurance and maintenance of any privately owned areas and improvements;
- j. Identify phasing and indicate time frames when the development plan is to be implemented in phases. (Ord. 12-69)

**7.3.906: LAND USE:**  

TNDs vary by size and type, but have common elements. All include a range of housing types, open space or parks and focal points. A smaller TND may be developed with only these elements. As the size of a project increases so does the variety of land uses. Larger TNDs not only include a range of housing types and densities, but also a variety of parks and open space areas, civic space and possibly office and commercial areas. Large TNDs will incorporate civic uses and plazas, designed around the neighborhood center concept. Neighborhood centers, centers of activity not necessarily at the geographic center of the development, should include commercial and office uses whenever they are economically feasible. The following chart provides standards for land use by percentage and type:

A. Land Use Chart:

Size (Gross Acres)	Small 2 - 39.99 Acres	Midsize 40 - 79.99 Acres	Large 80 Acres And Larger
Single-family detached housing, two-family dwelling units	50% minimum	40% minimum	30% minimum
Multi-family housing and townhouses	5% minimum	10% minimum	15% minimum
Open space/parks <sup>1</sup> /plaza/square/courtyard <sup>2</sup>	5% minimum	10% minimum	15% minimum

Civic use or commercial (including office, retail, and industrial)	Optional	5% minimum	5% minimum
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(All percentages are expressed as gross acreage.)

Notes:

1. The parks dedication standard in article 7, part 12 of this chapter shall apply, but not less than the percentage noted shall be provided in a TND.
2. For large TNDs, at least 5 percent of the open space provided shall be in plaza/square or courtyard.

B. Alternative Compliance: An applicant may propose alternative compliance to the strict application of the land use ratios and requirements expressed in the land use chart and below as standards, such that the alternative:

1. Achieves the intent of the subject standard to the same or better degree than the subject standard; and
2. Achieves the TND goals as stated in this zone district to the same or better degree than the subject standard; and
3. Results in equivalent or better benefits to the community than compliance with the subject standard.

C. Land Use Design Standards: The following land use design standards are required in a TND Zone:

1. A minimum of eighty percent (80%) of all dwelling units shall be within one-fourth (1/4) mile of an activity area (park, plaza, neighborhood center, or civic space), measured in a straight line from the boundaries of the subdivision lot to the nearest boundary of the activity area.
2. Existing natural resources shall be preserved and incorporated into open space, parks or common areas.
3. Parks, plazas, civic and open space areas shall provide an identity and focus for individual neighborhoods as well as the overall community.
4. Neighborhood parks are improved areas and shall provide recreational space and include amenities such as informal play fields, play equipment, seating areas and other similar improvements. Open space shall remain in its natural state in perpetuity, and conserve significant natural features. Further, open space shall be formative rather than residual and may have undergone restoration. In a TND, open space provides an alternative to parks when it provides an area for uses such as hiking, biking or picnicking.
5. Park areas shall be bounded by streets, open space or civic uses on a minimum of fifty percent (50%) of their perimeter. For both midsize and large TND projects, the minimum size of parks shall

be one-fourth (0.25) acre. Parks smaller than three and one-half (3.5) acres shall be privately owned unless accepted for public dedication.

6. To count toward the land use acreage requirements in the land use chart, an open space area shall be a minimum of forty feet (40') in width.
7. For large TND projects, plazas shall be provided for passive recreational use. Plazas shall be designed for the TND neighborhood as community gathering spaces and shall be located as a focal point or in the neighborhood center. They shall be bounded by streets or buildings and be a minimum of one thousand (1,000) square feet in area.
8. A maximum of one accessory dwelling unit is permitted on lots designated for detached single-family dwelling, two-family dwelling units and townhouses. This unit may be used as residential dwellings or as a home occupation space for the occupant of the principal structure.
9. TND shall meet applicable overlay zoning classification standards. Where conflict exists between requirements of the overlay zone and TND, the applicant may request removal of the overlay zone.

D. Permitted, Conditional And Accessory Uses: Uses allowed within a TND are indicated with the permitted, conditional and accessory land use table found in section [7.3.203](#) of this article. Uses are allowed within a TND District are subject to the standards found in this part. (Ord. 12-69)

### **7.3.907: ARCHITECTURE AND DESIGN:**

Architecture plays a prominent role in TNDs. Buildings help to define the streetscape. Front porches and rear loaded garages are often the standard in residential areas. Parking for businesses and homes is provided primarily behind buildings.

A. General Architecture And Design Standards: The following architecture and design standards are required of a TND:

1. Public and private lighting systems shall meet the following standards:
  - a. Fully shielded light fixtures shall be used in parking lots.
  - b. Ornamental light fixtures installed at developer expense may be used on private property, however, if the average maintained luminance exceeds eight-tenths (0.8) foot-candle, fully shielded fixtures shall be used. All private lighting shall be human scale, twelve feet (12') maximum height in pedestrian areas, and sixteen feet (16') maximum height in parking lots.
  - c. All public lighting in streetscapes and other areas shall be installed in accord with the models and design approved by Colorado Springs Utilities ("Utilities").
2. For detached single-family dwelling and two-family lots, lot coverage for principal and accessory structures shall not exceed sixty percent (60%).
3. Corner lots shall have two (2) front yards along each street, with build-to lines on both frontages. Where development sets a front build-to line at or close to the primary front property line (location of front door), a secondary front build-to line (often considered the side yard) of at least five feet (5') shall be provided to assure adequate drainage and improve site aesthetics at the corner. Sight

visibility triangles as described in the "Subdivision Policy And Public Works Design Manual" shall also be met, and may require additional setback.

4. All residential units shall have a first floor front elevation, including the porch, of no less than eighteen inches (18") above finished sidewalk grade. Porches with elevations of forty eight inches (48") or more above finished sidewalk grade shall be no closer than five feet (5') to the front property line. Porch steps may be placed up to, but not beyond, the front property line. Flexibility to achieve compliance with the Americans With Disabilities Act requirements shall be available.
5. Front porches on primary residential units shall be included for all one- and two-family homes. The minimum depth of the porch shall be five feet (5') of unobstructed space at the narrowest point and the minimum area shall be fifty (50) square feet. A second story area above a first story porch that encroaches into a build-to zone may be constructed as a balcony, but shall not be roofed or enclosed, except with a porch railing or porch wall. Porch walls, which may be opaque, and porch railings shall not exceed forty two inches (42") in height.
6. In residential areas, one-story porches shall be allowed to encroach into the build-to zone, but shall not be allowed into the public right-of-way or an easement.
7. Up to fifty (50) square feet of porch area shall be excluded from calculations to measure lot coverage.
8. Porches shall be open on the street side and any enclosures on the sides above any porch wall shall be transparent.
9. Accessory dwelling units shall not be subdivided from the principal residence and must remain a part of the lot on which they were created.
10. All accessory dwelling units shall be located within one hundred feet (100') of a curb face, with direct pedestrian access to the street.
11. Accessory dwelling units shall be no greater than six hundred (600) square feet, unless the subject lot is larger than seven thousand (7,000) square feet and then the size may be increased to seven hundred fifty (750) square feet, not including decks and porches.
12. Accessory dwelling units shall not exceed the height of the principal residence.
13. Lots with accessory dwelling units shall have a minimum of one additional on site parking space to serve the accessory dwelling unit.
14. Driveways for front loaded garages on single-family lots with fifty feet (50') or more of street frontage shall not exceed twenty feet (20') in width measured at the build-to line. Driveways for front loaded garages on single-family lots with less than fifty feet (50') of street frontage shall not exceed twelve feet (12') in width measured at the build-to line.
15. Front loaded garages shall be set back at least twenty feet (20') from the inside edge of a sidewalk. The garage facade shall be set back at least six feet (6') from the front facade of the house, not including the porch.

16. Garage door opening(s) located between six feet (6') and ten feet (10') of a build-to line and facing a front street shall not exceed forty percent (40%) of the width of the house facade which includes the garage.
17. Side yard setbacks shall allow enough space for extension of service utility lines to structures. Where a zero foot (0') side yard setback is used for a garage, the other side setback must be a minimum of five feet (5').
18. Except as otherwise required in a TND, the City's parking requirements shall apply to TNDs.
19. Where shared parking is used, a shared parking and cross access agreement shall be recorded prior to issuance of a building permit. Where shared parking is used, the parking requirements for those uses may be reduced by up to twenty percent (20%).
20. Fencing shall be allowed as follows:
  - a. Fencing established behind the build-to zone or line is subject to the same regulation as fences under the standard provisions of the Zoning Code.
  - b. Fencing in the front yard on mid block lots and in the primary front yard of corner lots (where the front door is located) is limited to forty two inches (42") in height and must meet sight distance requirements.
  - c. Fencing in the secondary front yard on corner lots (similar to side yard) is permitted as follows:
    - (1) A fence setback shall be established on the development plan that maintains at least twenty four inches (24") from the sidewalk and that meets sight distance requirements;
    - (2) A fence shall be no more than seventy five percent (75%) opaque up to forty eight inches (48") in height, and fifty percent (50%) opaque above that;
    - (3) A fence must be located at or behind the primary front facade of the dwelling.
21. Signage shall emphasize a uniform design theme and be oriented to pedestrians. Signs shall share a common style in terms of size, shape and materials.
22. Trash enclosures shall be located at the rear of the lot.
23. Aboveground utility equipment such as transformers and telecommunication boxes located in areas other than alleys shall be visually screened while providing the minimum required front, side and rear clearances (typically 3 foot sides and rear, and 8 foot front).
24. Standard front, side and rear yard utility easements required under subsection [7.7.607B](#) of this chapter may be waived by the City or alternative locations allowed, depending on the subdivision design.
25. Where a greenway or courtyard site design is proposed, the greenway or courtyard length shall be limited to three hundred feet (300') when a standard block design is used with streets on either end (150 foot minimum from a public street). Where a design is proposed other than the above "block" layout, the design shall be evaluated as a function of emergency service provision and may require a Fire Department access lane. Where multi-family units or commercial building is proposed, buildings



shall be designed with a mid block break in order to provide an emergency services access, and to facilitate addressing. The greenway shall include pedestrian sidewalks extending the length of the block, at least five feet (5') wide, and sidewalks to front doors at least three feet (3') wide. The greenway shall allow public access (and utility easement where appropriate) for primary access to dwellings or commercial space. Greenways associated with greenway units shall have a forty foot (40') minimum average width, with twenty foot (20') minimum dimension, and areas considered private lot areas shall not be counted toward the width.

B. Multi-Family, Mixed Use, Civic And Commercial Buildings Standards: Commercial, multi-family, civic or mixed use TND buildings shall conform to the following additional architectural and design standards:

1. Building fronts and main entrances shall orient to the street(s) or to a courtyard connected to the street with a pedestrianway. In a courtyard orientation, all building frontages adjacent to streets shall include design features to create interest on the street.
2. Buildings shall be designed to promote a sense of human scale.
3. Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local context.
4. The design of all buildings shall avoid monolithic shapes and shall include articulated surfaces.
5. The architectural features, materials and the articulation of a facade shall be continued on all sides visible from a public street, excluding alleys.
6. Building entrances shall be clearly defined and emphasized.
7. The first floor street frontage of parking structures, excluding alleys, shall be dedicated to commercial, office or civic use.
8. For commercial space only, a minimum of fifty percent (50%) of the area of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior. Windows or glazed areas facing a sidewalk on the first floor shall use glass that is at least eighty percent (80%) transparent and allows views in and out of the building.
9. In neighborhood centers and for multi-family developments, directly adjacent on street parking may be counted toward meeting the minimum parking requirements of those neighborhood centers or multi-family developments.
10. When attached to nonresidential and mixed use buildings, fully shielded exterior lighting fixtures shall be used.
11. All outdoor mechanical equipment, such as heating and ventilation systems, must be placed on the roof, in the rear or side of a building, and otherwise visually screened from any street. Mechanical equipment along street frontage(s) shall be screened. Mechanical equipment on a roof shall be screened with parapet or other types of visual screen walls.
12. In any mixed use area of a TND, all signs shall be wall or projecting signs. Projecting signs shall be mounted perpendicular to the building face and shall not exceed eight (8) square feet of area.

13. Commercial storefronts shall have no more than twenty four (24) square feet of signage per storefront.
14. On site parking areas shall be located to the rear or side of the buildings.
15. Parking lots located on the side of buildings shall be screened from the street by a wall or landscaping achieving a minimum of thirty six inches (36") in height.
16. Parking lots shall not abut street intersections, excluding alleys.
17. The provision of on site parking spaces shall not exceed one hundred twenty five percent (125%) of the minimum parking requirements for multi-family, civic, commercial or mixed use, as specified in this Zoning Code. (Ord. 12-69)

**7.3.908: STREETSCAPE:**  

The streetscape of the TND is a critical component of vitality and livability of the neighborhoods. The "streetscape" is defined as that area that lies between the street curb and the facade of the adjacent buildings. The combination of the adjacent land use with the public and semipublic spaces of the streetscape is what makes the street a dynamic and inviting space to the pedestrian.

A. Streetscape Design Standards: The following design standards are required of a TND:

1. Building scale and height along streets shall be relative to the TND roadway type, where the smaller structures shall be located along narrower streets and taller structures along wider streets.
2. Either a build-to line or build-to zone shall be designated on the TND development plan. Where a build-to zone is designated, each building's primary facade (not including porch) shall be set on the build-to line. Where a build-to zone is designated, each building's primary facade (not including porch) may vary within the build-to zone. Build-to lines and zones shall be designated within the ranges specified in the table below. The build-to line or zone for secondary frontages which do not include the front door, may be reduced and shall be established through analysis of sight distance and drainage, but in no case shall be less than five feet (5'). Build-to zones or lines shall fall within the following distances from the property line:

Single-family/two-family*	10 - 15'
Townhomes*	0 - 10'
Multi-family*	0 - 15'
Live/work	0 - 10'
Office	0 - 10'
Neighborhood commercial	0 - 10'
Civic	n/a
Parking lots with street frontage**	8' min.

Notes:

\* Residential: At the outside edge of a TND, the build-to line may be up to 25 feet.

\*\* Measured from the adjacent building facade(s), in a direction away from the public right of way.

3. Sidewalks shall have two (2) access ramps per corner.
4. Sidewalks are to be a minimum of five feet (5') in width. Sidewalk design widths shall be based on street type.
5. Tree lawns, a minimum of six feet (6') in width, shall be provided along all streets. Tree lawn design widths shall be based on street type.
6. Street trees shall be planted along all streets at a maximum distance of thirty feet (30') on center.
7. Street trees at intersections shall not be planted closer than twenty five feet (25') to the corner.
8. Unenclosed cantilevered balconies with a minimum of ten feet (10') of clearance above grade shall be permitted to extend up to six feet (6') over the sidewalk.

B. Landscape Design Standards: The Landscape Code<sup>1</sup> and policy manual of the City of Colorado Springs will apply within a TND. The exceptions listed below supersede the Landscape Code requirements:

1. Coverage Requirements<sup>2</sup>: Live ground plane coverage requirements shall apply to the tree lawn area as well as the build-to zone within the landscape setback.

Residential	80 percent
Neighborhood center	50 percent
Mixed use	50 percent

Live ground plane coverage in neighborhood centers and mixed use areas may go as low as twenty five percent (25%) if the hardscape elements consist of a variety of high quality, detailed elements such as colored/patterned concrete, brick/concrete pavers, and stone.

- a. Landscape Setbacks: Landscape setbacks for building frontages shall correspond to the build-to lines per this section. Landscape setbacks where parking fronts the street shall include an additional minimum eight feet (8') from the build-to line.
- b. Tree Requirements: Tree requirements are based on street type. All streets (except alleys) shall have a street tree requirement.

Lane	30' oc 2" caliper
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TND street	30' oc 2" caliper
Neighborhood street	30' oc 2" caliper
Main street	30' oc* 3" caliper
Avenue	30' oc* 3" caliper
Boulevard	30' oc* 3" caliper
Parkway	30' oc* 3" caliper

oc = on center

\*Final spacing to be species dependent

These trees shall be located within the tree lawn.

Multi-family and nonresidential uses will be required to meet tree quantity criteria, street trees included, based on street type<sup>3</sup>:

Avenue: Minor arterial

Boulevard: Minor arterial

Parkway: Expressway/principal arterial

2. Landscape Buffers And Screens<sup>4</sup>: This section shall only apply if the site design does not achieve compatibility between different uses.
3. Street Trees In Parkway (Tree Lawns)<sup>5</sup>: Street trees in parkways (tree lawns) shall correspond to the requirements in subsection B1b, "Tree Requirements", of this section. (Ord. 12-69)

### 7.3.909: STREETS:

The streets of a TND are an integral part of the development and are key elements in the creation of a neighborhood. To encourage alternative uses of transportation and provide options to driving, TND streets need to accommodate pedestrian, transit, bicycle and automobile modes on an equal basis.

The street system within the TND is to have a high level of connectivity to adjacent and neighboring street systems, either existing or proposed. The dispersion of traffic throughout the TND is dependent upon providing numerous opportunities for ingress, egress and internal circulation within the neighborhood. To accomplish this, numerous street types are defined.

The success of circulation within a TND neighborhood relies on the street types that intersect with each other. For optimum access, and to address issues of safety, deliveries and utility servicing, the street network should always have the smaller streets (lanes and TND streets) intersecting with streets of a higher classification (neighborhood and main streets, avenues and boulevards).

A. TND Roadway Standards: The following street standards are required in a TND:

1. Alleys shall be provided in the neighborhood center to facilitate access to parking and for use by service and delivery vehicles.
2. Dead end alleys are prohibited.
3. There shall be a minimum of thirty feet (30') of distance between building faces on opposite sides of an alley.
4. Garages and accessory dwelling units accessed from an alley shall display addresses that are clearly visible from the alley.
5. Streets and pedestrianways shall be interconnected so that access throughout the community is direct and convenient.
6. Low speed street geometry shall be used to limit the speed at which motorists turn and enter streets. Tight corner radii of ten feet (10') to twenty feet (20'), depending on the intersecting street types, shall be used.
7. Adequate sight triangles at all intersections shall be preserved.
8. Queuing areas shall be provided at mid block of two-way streets of twenty eight feet (28') in width of pavement or less for firefighting purposes. Such areas shall be designated as fire lanes with no parking.
9. No parking is permitted within thirty feet (30') of the intersection of two-way streets of twenty eight feet (28') of pavement width or less. No parking is permitted within twenty feet (20') of the intersection of an alley and a TND roadway. These areas shall be designated as fire lanes with no parking.
10. No aboveground obstructions, with the exception of streetlights, are permitted within fifteen feet (15') of an intersection of two-way streets of twenty eight feet (28') in width of pavement or less. Aboveground obstructions include, but are not limited to, fire hydrants, trees and traffic signs.
11. Lanes and TND streets are to have reinforced, vertical curbs, and surfaces within street intersection radii are to be concrete a minimum of six inches (6") thick, four thousand (4,000) psi and fiber reinforced.
12. Public alleys shall be platted with an eighteen foot (18') right of way and sixteen foot (16') pavement width for residential areas and a twenty two foot (22') right of way and twenty two foot (22') pavement width for nonresidential areas. Private alleys shall be platted with an eighteen foot (18') utility and access easement and sixteen foot (16') pavement width for residential areas and twenty two foot (22') utility and access easement and twenty two foot (22') pavement width for nonresidential areas. Alleys shall not allow parking, and shall be paved. When utilities are located within or adjacent to alleys, an adjacent six foot (6') wide access and utility easement shall be provided on both sides of the alley right of way or easement.
13. Lanes shall be platted with a forty six foot (46') right of way, a twenty two foot (22') pavement width flow line to flow line, shall allow parking on one side, shall have sidewalks a minimum of five feet (5') in width on both sides, shall be paired with an alley on both sides, shall have a maximum block length of four hundred feet (400') and shall extend from two (2) to four (4) blocks in length.

14. TND streets shall be platted with a fifty two foot (52') right of way, a twenty eight foot (28') pavement width flow line to flow line, shall allow parking on both sides, shall have sidewalks a minimum of five feet (5') on both sides, shall be paired with an alley on both sides, shall have a maximum block length of four hundred feet (400'), and shall extend from four (4) to six (6) blocks in length.
15. Neighborhood streets shall be platted with a sixty foot (60') right of way, a thirty two foot (32') pavement width flow line to flow line, shall allow parking on both sides, shall have sidewalks a minimum of six feet (6') on both sides, shall have a maximum block length of six hundred feet (600'), and shall extend from four (4) to six (6) blocks in length.
16. Main streets shall be platted with a minimum sixty four foot (64') right of way, a minimum thirty four foot (34') pavement width flow line to flow line, shall allow parking on both sides, shall have sidewalks a minimum of eight feet (8') on both sides, shall be paired with an alley on at least one side, shall have a maximum block length of six hundred feet (600'), and shall extend from four (4) to six (6) blocks in length.
17. Avenues shall be platted with a minimum of ninety foot (90') right of way, a minimum twenty four foot (24') pavement width flow line to flow line for each direction of traffic, shall have a center landscaped median of no less than seventeen feet (17') in width, shall allow parking on both sides, shall have sidewalks a minimum of six feet (6') on both sides, shall have a maximum block length of six hundred feet (600'), and shall extend from four (4) to six (6) blocks in length. Where a bicycle route is designated, a six foot (6') bike lane shall be included.
18. Boulevards shall be platted with a minimum of one hundred twenty four foot (124') right of way, a minimum thirty five foot (35') pavement width flow line to flow line for each direction of traffic, shall have a center landscaped median of no less than seventeen feet (17') in width, shall allow parking on both sides, and shall have sidewalks a minimum of six feet (6') in width on both sides. Where a bicycle route is designated, a six foot (6') bike lane shall be included.
19. Parkways shall be platted with a minimum of one hundred twenty four foot (124') right of way, a twenty eight foot (28') pavement width flow line to flow line for each direction of traffic, shall have a center median of no less than twenty feet (20') in width, shall not allow parking, and shall have sidewalks a minimum of six feet (6') in width on both sides.
20. Lanes and TND streets shall always intersect with neighborhood streets, main streets, avenues or boulevards.
21. When fences are constructed that impede access to aboveground utility equipment, gates to enable access shall be provided.

**B. TND Drainage Standards:** The following drainage standards are required of a TND (except as indicated in this TND zone, the drainage criteria manual shall apply):

Vertical curbs, including curb returns, shall be used on all TND streets, excepting alleys. City standard eight inch (8") vertical curb is required except where six inch (6") vertical curb is desired to create a more traditional or aesthetic appearance. Storm sewer inlets must be placed where the allowable street flows are exceeded. Street capacities are reduced when using six inch (6") curb which may result in additional storm sewers and inlets. The design engineer shall compute the allowable flow capacities and flow depths for TND streets using equivalent values in the drainage criteria manual and the following criteria:

1. For local streets the initial storm 5-year flow must not cross the street crown from one side to the other. There must be at least two inches (2") of freeboard at the curb. The major storm 100-year flow must not exceed twelve inch (12") depth at the gutter and must not flood adjacent buildings.
2. For avenues and parkways, initial storm flow spread must not encroach beyond the outside lane and major storm flows must be confined in the street section.
3. Allowable alley storm flows shall be limited to the flows generated from the rear of the lots along the alley.
4. Alley flows shall not cross the intersecting streets into another alley but shall be captured or diverted at the intersecting street.
5. Flow spread shall be confined to the right of way at reasonable and safe depths.
6. Alternate inlet types such as combination castings shall be allowed to provide a more traditional appearance. Slotted drains are prohibited.

C. Utilities: The design of the TND is to occur in a comprehensive manner, where land use, site configuration and infrastructure are designed in concert with one another. This will especially apply to utility design work where advance planning and design will facilitate construction, both from a functional and aesthetic standpoint.

1. General Utility Considerations: Colorado Springs Utilities ("Utilities") provides the community of Colorado Springs with electric, gas, water and wastewater service. To accommodate and support TNDs, guidelines have been developed for utility placement. Utility guidelines in the TND policy manual are for general planning purposes only, and do not supersede applicable City Code, tariffs, standards, specifications and safety codes. Utilities publishes its "Line Extension And Service Standards" for each utility and its "Construction And Maintenance Standards" which provide details regarding facility location, access and landscaping requirements. Due to the nature of TNDs, utility design is expected to be site specific. Developers are encouraged to contact Utilities in the earliest phase of the project to discuss options for utility placement.

The TND roadway types, right of way widths and associated easements allow for most development types and typical utility infrastructure. Additional utility easements may be required by Utilities as necessary to accommodate the final utility infrastructure necessary to meet the subdivision layout and overall capacity demands. The developer typically dedicates utility easements using a standardized Utilities easement agreement form and process. (Ord. 12-69)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): See article 4, part 3 of this chapter.

[Footnote 2](#): See subsection [7.4.317B](#) of this chapter.

[Footnote 3](#): See subsection [7.4.320D](#) of this chapter.

[Footnote 4](#): See section [7.4.323](#) of this chapter.

[Footnote 5](#): See section [7.4.324](#) of this chapter.

# Article 4

## SITE DEVELOPMENT STANDARDS

### PART 1 GENERAL STANDARDS

#### 7.4.101: PURPOSE:

#### 7.4.102: GENERAL STANDARDS:

#### 7.4.101: PURPOSE:

These standards shall ensure that new or modified development will produce a stable, desirable character which is harmonious with existing and future development and is consistent with the City's Comprehensive Plan. (Ord. 94-107; Ord. 01-42)

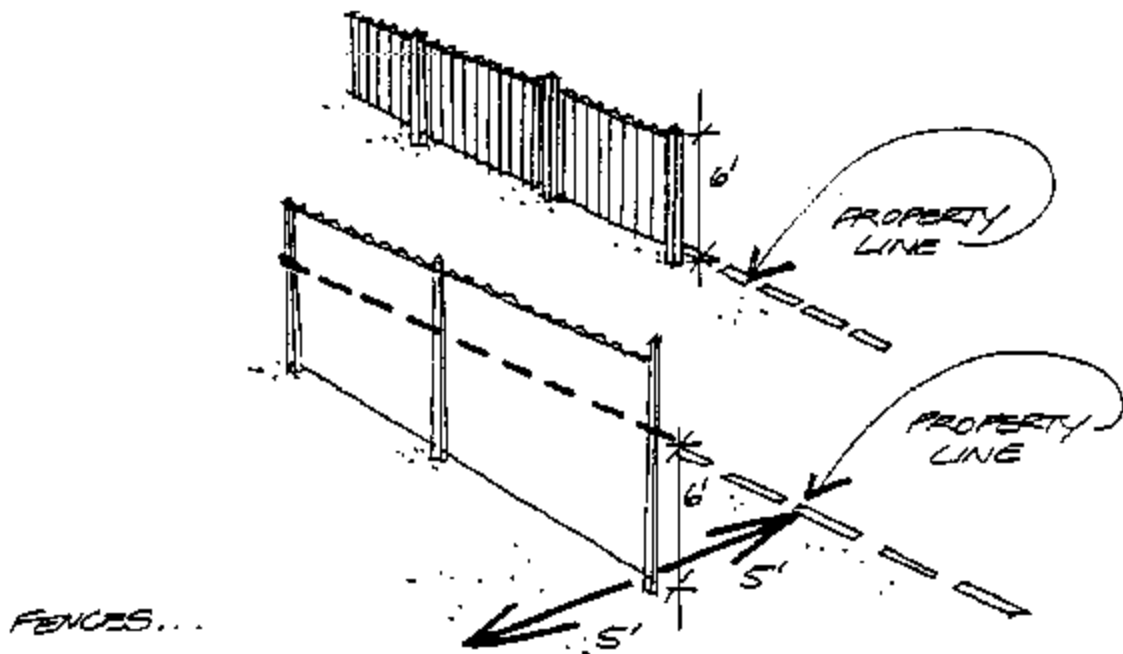
#### 7.4.102: GENERAL STANDARDS:

These standards shall apply to all new construction or modifications to an existing structure which is fifty percent (50%) or more of the existing floor area. No permit shall be approved unless it conforms to all of the applicable standards listed in this section.

A. Fences Or Walls: Except in a TND and HS Overlay Zone, fences or walls six feet (6') or under in height may be placed anywhere on the property except within established preservation areas. Fences within preservation areas are subject to development plan approval to establish appropriate locations. All fences must comply with the corner visibility regulations described in this section. Fences or walls over six feet (6') are considered accessory structures and must meet accessory structure setback and height requirements identified in subsection [7.3.105A](#) of this chapter. Fence height shall be measured from the top of the fence including fence poles, posts, and finials to the finished grade on both sides of the fence.

1. If the height of the two (2) sides varies, then the larger of the two (2) measurements shall be used in determining the height of the fence.
2. If the fence is located within three feet (3') of the face of a retaining wall, the height of the fence is measured from the top of the fence to the finished grade at the bottom of the retaining wall.
3. The finished grade of the fence area shall not be altered to artificially comply with these regulations.
4. An additional twelve inches (12") of height is permitted for fence posts, poles, and finials when spaced eight feet (8') or more from each other.





Contact the Utility Notification Center of Colorado (UNCC), "Call Before You Dig", at 1-800-922-1987 or contact the UNCC online at [www.uncc.org](http://www.uncc.org). Call before you design to determine the existence of utility facilities or utility easements, Colorado Springs Utilities at 719-668-7221.

#### B. Screening And Fence Materials:

1. In various sections of this Code, opaque screening is required to improve compatibility between land uses and minimize visual impacts of outdoor storage. Opaque screening may include masonry walls, solid wood fencing, chainlink fencing with permahedge inserts, chainlink fencing with opaque slats or a limited use of solid evergreen plantings. The specific type of screening materials shall be determined in conjunction with the review of a development plan where one is required.
2. Exterior use of tarps, plastic sheeting, polypropylene or other similar materials as flexible or inflexible screening or fencing is prohibited when visible from beyond the property boundaries, except for City-installed and/or maintained snow fence or as part of active construction or remodeling project and/or as illustrated as part of a City-approved construction or grading and erosion control plan.

#### C. Height Exceptions:

1. Place Of Public Assembly: When located in a residential zone, hospitals, churches, schools, and other places of public assembly may exceed the height limitations if the side and rear building setback requirements are increased by an additional foot more than that which is required for each foot that the height of such building exceeds the maximum height requirements.
2. Ornamental Features: Church spires, church towers, cupolas, flagpoles, chimneys, flues, vents, cooling towers, elevator and mechanical penthouses, accessory water tanks, parapet walls or

cornices for ornamentation or any other structures not used as floor space or for human occupancy, which are an integral part and architecturally compatible with the building and roof signs, may exceed the height limitation of the base zone up to five feet (5'). Cupolas that exceed the maximum height of the base zone shall be thirty six (36) square feet or less in size with no cupola side to exceed nine feet (9').

3. Antennas, Satellite Dishes: TV antennas, CB radio antennas, satellite dishes, and lightning protection systems, are excepted from the height limitations of this Zoning Code.

D. Lighting: All exterior lighting for multi-family, office, commercial, industrial, institutional and public facility uses shall be arranged to reflect away from any adjoining premises and any public right-of-way, and shall be shielded to contain all direct rays on the site. See article 3, part 9 of this chapter for specific lighting standards within the TND Zone. Alternate requirements for lighting may be included as a part of an FBZ regulating plan.

#### E. Prohibited Activities In Preservation Areas:

1. Minor Amendments: The Manager of the Community Development Department may approve changes to the location of preservation area boundaries shown on an approved plan or final plat for three (3) lots or less in any zone provided the unique and significant natural features and aesthetic qualities of the property are retained in their natural state, scenic or open condition. All affected parties will be notified of changes to preservation areas.

Requests for minor changes to the location of preservation area boundaries shall be submitted for administrative review as an individual lot hillside grading plan in accord with the Hillside Area Overlay regulations in this Zoning Code. If the lot is platted and recorded, a certified property survey showing the amended preservation area boundary must be submitted and recorded in accord with (platting procedures) the Subdivision Code.

Appeals of any administrative action of the provisions of this section shall be made in accord with article 5, part 9 of this chapter.

2. Major Amendments: The City Planning Commission may grant and approve changes to the location of preservation area boundaries shown on an approved concept plan, development plan, preliminary and final plat involving four (4) lots or more provided all of the following criteria can be satisfied:
  - a. The proposed revisions to the preservation area will not have adverse impacts upon surrounding properties nor be inconsistent with any plans adopted by the City.
  - b. The property exhibits extraordinary and exceptional physical development constraints and hazards which restrict a reasonable use of the property outside of the current preservation area designation and boundary.
  - c. The significant and unique natural features and aesthetic qualities of the property can be retained in their natural state, scenic or open condition without the need of the preservation area through demonstrated alternative site mitigation measures. Such site mitigation measures may include, but are not limited to:
    - (1) Alternative siting of structures which conserve the significant natural features and the aesthetic qualities of the site and enhance both on site and off site visual characteristics.

- (2) Use of existing natural vegetation as well as supplementary native landscaping to the maximum possible extent to soften structural mass.
- (3) Extensive reductions in all land disturbance activities on the property, especially in or near the site's sensitive and unique natural and aesthetic features.
- (4) Designation of special development restrictions and techniques, i.e., building height, size, design, construction, etc., which can appropriately reduce and mitigate the impacts of the development.

A revised or amended concept plan, development plan or preliminary/final plat, whichever is applicable, shall be submitted to the City Planning Commission for consideration in accord with the requirements as specified by the zone of the property, by article 5, part 5 of this chapter, or by platting procedures listed in the Subdivision Code. If the property or lots are platted and recorded, a certified property survey showing the amended preservation area boundary must be submitted and recorded in accord with the Subdivision Code.

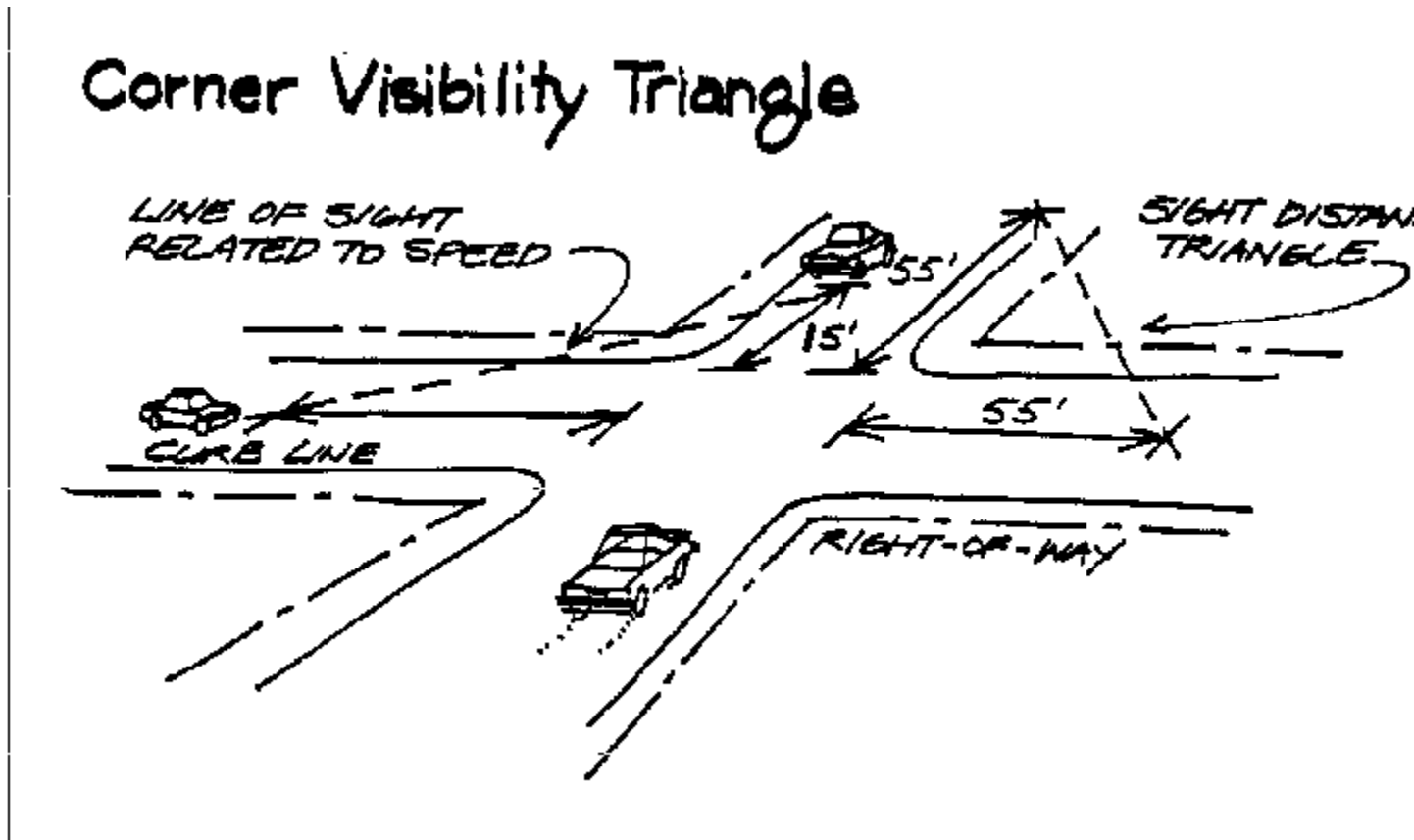
Appeals of City Planning Commission actions under the provisions of this section shall be made in accord with article 5, part 9 of this chapter.

#### F. Projections Into Setbacks:

1. Architectural Features: Cornice, eaves, belt course, sill, canopy or other similar architectural features, not including bay window or vertical projection, may extend or project into a required front, side or rear building setback four inches (4") for each foot of width of such setback but may not extend or project into the required front, side or rear setback more than a total of thirty inches (30").
2. Chimneys: Chimneys, seven feet (7') or less in width, may project into a required front, side or rear setback up to two feet (2') if the width of the setback is not reduced to less than three feet (3').
3. Fire Escape, Stairway, Access Ramp: A fire escape, open stairway or handicap access ramp may extend or project into any front, side or rear setback if the width and/or depth of the setback is not reduced to less than three feet (3').
4. Porches, Decks, Balconies: Covered porches, decks and balconies may not extend or project into required front, side or rear setbacks. Uncovered decks and patios which do not exceed eighteen inches (18") in height measured from the finished floor to any adjacent point of the finished grade may extend into required front, side or rear setbacks. Decks over eighteen inches (18") in height, from the finished grade, must meet the same setbacks as the principal use.
5. Stoops: A stoop, twenty (20) square feet or less, may project into a required front or rear setback.
6. Parking Lot Light Poles: Parking lot light poles may be located within any front, rear or side yard setback unless when adjacent to a single- or two-family residential zone district.
7. Flagpoles: Flagpoles limited to not more than a total of three (3) may be located within a front yard setback.

G. Traffic Standards; Corner Visibility: In any zone, except in an MU Zone, no fence, walls, buildings, pillars, landscaping, sign, or any other obstruction to vision between the heights of three feet (3')

and ten feet (10') above street level shall be permitted within the triangular area as described in the City's Subdivision Policy Manual and Public Works Design Manual. In addition to the triangle, there shall be a greater line of sight required at all intersections as measured from the vehicle a distance of fifteen feet (15') back from the intersecting street, a line distance directly related to the design speed of the intersecting street. These provisions may be adjusted by the Traffic Engineer where traffic control devices or other circumstances must be considered to provide for adequate safe sight distance.



#### H. ADA Site Accessibility:

1. Notice And Warning: Compliance with the Americans With Disabilities Act ("ADA") and other Federal and State accessibility laws is the sole responsibility of the property owner. Therefore, compliance with this Code does not assure compliance with the ADA or any other Federal or State accessibility laws or any regulations or guidelines enacted or promulgated under or with respect to such laws. The City of Colorado Springs is not responsible for enforcement of the ADA or any other Federal or State accessibility laws.
2. Note Added To Development Plans And Preliminary Plats: The following note shall be added to all development plans and preliminary plats, whichever is applicable, prior to approval:

The parties responsible for this plan have familiarized themselves with all current accessibility criteria and specifications and the proposed plan reflects all site elements required by the applicable

ADA design standards and guidelines as published by the United States Department of Justice. Approval of this plan by the City of Colorado Springs does not assure compliance with the ADA or any other Federal or State accessibility laws or any regulations or guidelines enacted or promulgated under or with respect to such laws. Sole responsibility for compliance with Federal and State accessibility laws lies with the property owner.

3. Provisions Illustrated: Each development plan submitted to the City of Colorado Springs shall illustrate the provision of ADA accessible routes in accord with the applicable ADA design standards and guidelines as published by the United States Department of Justice with clearly identified corridors reflected on the site development plan, as applicable. (Ord. 94-107; Ord. 01-42; Ord. 02-153; Ord. 03-122; Ord. 03-157; Ord. 09-50; Ord. 09-74; Ord. 09-75; Ord. 09-80; Ord. 12-76; Ord. 16-19; Ord. 17-38; Ord. 18-37)

## **PART 2 OFF STREET PARKING STANDARDS**

### **7.4.201: PURPOSE:**

### **7.4.202: GENERAL REGULATIONS:**

### **7.4.203: PARKING SPACE REQUIREMENTS BY USE:**

### **7.4.204: ALTERNATIVE PARKING OPTIONS:**

### **7.4.205: ACCESSIBLE PARKING SPACE REQUIREMENTS FOR THE DISABLED:**

### **7.4.206: GENERAL PROVISIONS, RESTRICTIONS, AND PROHIBITIONS:**

### **7.4.207: PARKING EXEMPT DISTRICTS:**

### **7.4.208: ADMINISTRATIVE RELIEF TO SAVE VALUABLE TREES:**

### **7.4.201: PURPOSE:**

The purposes of this part are to ensure the provision, location and design of off street parking areas that accommodate motor vehicles, while supporting the objectives and policies of the Comprehensive Plan, including balancing the needs of pedestrian and transit users with use of the automobile. Parking areas are secondary to the primary land uses on a site. (Ord. 86-124; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-157)

### **7.4.202: GENERAL REGULATIONS:**

The following provisions apply in all zones, except as otherwise specifically mentioned:

- A. Applicability: Off street parking and maneuvering areas which conform to this section shall be provided for a newly constructed building or new use on previously vacant land, for all uses in a building which has been enlarged, and for all uses in a building when any use is changed and the newly approved use requires more parking than the previously approved use. The areas outlined in the parking exempt districts, however, are exempted from the provision of the minimum number of off street parking spaces for specific land uses as referenced by this part. Alternative off street parking requirements may be established as a part of an FBZ regulating plan or as provided in section [7.4.204](#) of this part.

- B. Nonconforming Parking: Nonconforming off street parking and maneuvering areas which lawfully existed at the time this part became effective may be continued, except as otherwise provided in this section. Nonconforming parking and maneuvering areas shall not be expanded, enlarged, extended or increased except as otherwise allowed in this part. Additional off street parking may be required whenever the Manager determines that it is necessary to avoid congestion on public streets and for the general safety and convenience of City residents.
  
- C. Plans: Whenever parking is proposed, changed or redesigned under the provisions of this part, the off street parking which conforms to the provisions of this part shall be shown on the site or development plan; a parking plan is not required for interior remodels involving a change of use where the newly approved use requires equal or less parking than the previously approved use.
  
- D. Maintenance: Off street parking and maneuvering areas in conformance with this part shall be permanently maintained with the use to which they relate so long as such use remains.
  
- E. Parking Or Maneuvering Areas Located Within The Public Rights Of Way: Parking or maneuvering areas located within the public rights of way shall not be used to meet off street parking or off street loading requirements.
  
- F. Bench Or Pew Seating: Where parking is determined by the number of seats and continuous seating such as pews or benches is provided, every twenty inches (20") of a pew or bench shall represent one seat. It may be important to note that the Building and Fire Codes calculate occupant loading at a different factor than those given here. Contact the Regional Building Department and/or the Colorado Springs Fire Department to determine the occupant loading factor for seating to satisfy the Building and Fire Code requirements.
  
- G. Paving Of Unpaved Areas: The Manager may require the paving of legal, nonconforming unpaved parking, maneuvering or access areas or automobile display or storage areas for any use except a one-family residence. The requirement to pave shall be made after evaluating such factors as the character of the neighborhood and the amount and type of traffic generated by the use. The Manager shall find and determine that the use of the unpaved area causes air pollution due to blowing dust or adverse drainage conditions or that the use constitutes a nuisance to the residents or occupants of the neighborhood. Paving shall be provided as required by this part. (Ord. 94-107; Ord. 01-42; Ord. 03-157; Ord. 09-50; Ord. 09-75; Ord. 12-76; Ord. 17-8)

#### **7.4.203: PARKING SPACE REQUIREMENTS BY USE:**

- A. Minimum Number Of Off Street Parking Spaces: The minimum number of off street parking spaces to be provided for a use is listed in the following table. All parking ratios are based upon the gross floor area contained within the building. When the computation of the required off street parking spaces results in a fraction, the requirement shall be rounded to the nearest whole interval. Fractions of 0.5 or less shall be rounded to the next lowest whole number. Fractions greater than 0.5 shall be rounded to the next highest whole number. Parking amounts required for uses in MU zone districts are subject to the supplemental parking requirements and standards in subsection [7.3.712B](#) of this chapter. Alternative parking requirements may be established as a part of an FBZ regulating plan or as otherwise determined per section [7.4.204](#) of this part.

The required off street parking spaces for a use which is not specifically listed, shall be determined by the Manager based upon the requirements of other listed similar uses.

**MINIMUM OFF STREET PARKING REQUIREMENTS FOR SPECIFIC USES**

<b>Use Types</b>	<b>Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter</b>
Residential use types:	
	Accessory dwelling unit
	1 space per dwelling unit
Attached dwelling units:	
	Studio or efficiency
	1.1 spaces per dwelling unit
	1 bedroom
	1.5 spaces per dwelling unit
	2 bedrooms
	1.7 spaces per dwelling unit
	3 bedrooms
	2.0 spaces per dwelling unit
	Elderly (60 or over)
	0.6 space per dwelling unit
Dormitory, fraternity or sorority house	0.5 space per bed
Human service establishment:	
	Detoxification center
	1 space per 8 beds
	Domestic violence safe house
	1 space per 8 beds
	Drug and alcohol treatment facility
	1 space per 8 beds
	Family care home
	1 space per dwelling unit
	Family support residence
	1 space per 8 beds
Human service facility:	
	Hospice
	1 space per 8 beds
	Human service home
	1 space per dwelling unit

Use Types		Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
	Human service residence	1 space per dwelling unit
	Human service shelter:	1 space per 8 beds
	Large family care home	1 space plus 1 per 8 beds
	Residential childcare facility	1 space per 8 beds
	Mobile home	1 space per mobile home space
	Mobile home park	1 space per mobile home space
	Multi-family dwelling (see Attached dwelling units)	
	Retirement home	0.6 space per dwelling unit
	Rooming or boarding house	0.5 space per bed
	Single-family detached dwelling	1 space per dwelling unit
Office use types:		
	Call center	1 space per 200 square feet <sup>1</sup>
	Financial services; bank, savings and loan, credit union	1 space per 400 square feet <sup>1</sup>
General offices:		
	Administrative, business or professional	1 space per 400 square feet <sup>1</sup>
	Telemarketing	1 space per 200 square feet <sup>1</sup>
Live/work structure:		
	Residential portion only	1 space per dwelling unit



Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
Nonresidential portion only	The lesser of: 1 space per 300 square feet or 1 space for each nonresident employee
Medical offices, labs and clinics	1 space per 200 square feet <sup>1</sup>
Commercial use types:	
Agricultural sales and service, nursery	1 space per 600 square feet for buildings plus 1 space per 2,000 square feet of outdoor storage and display <sup>1</sup>
Automotive and equipment services:	
Auto service	1 space per 200 square feet <sup>1</sup>
Automotive rentals	1 space per 400 square feet of office space plus adequate space for vehicle storage and display <sup>1</sup>
Automotive repair garage	1 space per 200 square feet of building area plus adequate space for vehicle storage <sup>1</sup>
Automotive sales	1 space per 400 square feet of office space plus adequate space for vehicle storage and display <sup>1</sup>
Automotive storage yard	1 space per 400 square feet of office space <sup>1</sup>
Automotive wash	1 space per bay or stall
Body and fender repair services	1 space per 200 square feet of building area plus adequate space for vehicle storage <sup>1</sup>
Construction equipment business	1 space per 400 square feet of office space plus adequate space for vehicle storage <sup>1</sup>
Equipment rental and sales	1 space per 400 square feet of office space plus adequate space for vehicle storage and display <sup>1</sup>

Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
Equipment repair services	1 space per 200 square feet of building area plus adequate space for vehicle storage <sup>1</sup>
Equipment storage yard	1 space per 400 square feet of office space <sup>1</sup>
Bar, tavern or nightclub	1 space per 100 square feet <sup>1</sup>
Bed and breakfast inn	1 space per 2 guestrooms or suites
Building maintenance services	1 space per 400 square feet <sup>1</sup>
Business office support services	1 space per 500 square feet <sup>1</sup>
Business park	1 space per 500 square feet <sup>1</sup>
Campground	1 space per 400 square feet of office space <sup>1</sup>
Commercial center:	
Less than 10 acres	1 space per 250 square feet <sup>1</sup>
10 - 30 acres	1 space per 300 square feet <sup>1</sup>
Over 30 acres	1 space per 300 square feet <sup>1</sup>
Communication services	1 space per 400 square feet <sup>1</sup>
Construction sales and services:	
Completely enclosed	1 space per 600 square feet <sup>1</sup>
Includes outside activities	1 space per 600 square feet <sup>1</sup>
Consumer convenience services	1 space per 400 square feet <sup>1</sup>
Consumer repair services	1 space per 400 square feet <sup>1</sup>
Data center	1 space per 400 square feet of office space <sup>1</sup>
Exterminating services	1 space per 400 square feet <sup>1</sup>

Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
Food sales:	
Convenience food sales	1 space per 300 square feet <sup>1</sup>
General food sales	1 space per 300 square feet <sup>1</sup>
Specialty food sales	1 space per 300 square feet <sup>1</sup>
Funeral services	1 space per 4 seats
Hookah bar	1 space per 100 square feet <sup>1</sup>
Hotel/motel	1 space per 1 guestroom or suite plus 1 space per 200 square feet of restaurant space plus 1 space per 8 seats of meeting space <sup>1</sup>
Kennels	1 space per 400 square feet of office space <sup>1</sup>
Liquor sales	1 space per 300 square feet <sup>1</sup>
Medical marijuana facility:	
Medical marijuana center	1 space per 300 square feet - retail, 1 space per 400 square feet - office
Medical marijuana infused product manufacturer	1 space per 750 square feet
Optional premises cultivation operation	1 space per 5,000 square feet - grow and process, 1 space per 400 square feet - office
Miniwarehouses	None, but spaces are required for accessory uses
Mixed commercial-residential	See the specific requirements for the commercial and residential uses
Mixed office-residential	See the specific requirements for the commercial and residential uses
Personal improvement services	1 space per 250 square feet <sup>1</sup>

Use Types		Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
	Personal consumer services	1 space per 400 square feet <sup>1</sup>
	Pet services	1 space per 400 square feet <sup>1</sup>
	Pharmacy:	
	Office	1 space per 400 square feet <sup>1</sup>
	Retail	1 space per 300 square feet <sup>1</sup>
	Recreation, commercial:	
	Amusement park	30 spaces per acre
	Arcade or game room	1 space per 300 square feet <sup>1</sup>
	Bowling alley	4 spaces per lane
	Commercial stables, riding academies and/or corrals	1 space per 5 stalls
	Golf course	4 spaces per hole
	Golf driving range	1 space per tee
	Ice and roller skating rink	1 space per 150 square feet <sup>1</sup>
	Miniature golf course	1 space per hole
	Pool hall	2 spaces per table
	Racetrack	1 space per 4 seats
	Shooting range	1 space per firing lane
	Stadium and/or sports arena	1 space per 4 seats
	Swimming pool	1 space per 150 square feet of pool area <sup>1</sup>
	Tennis, handball or racquetball facilities	3 spaces per court

Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
Theater	1 space per 4 seats
Recreational vehicle park	1 space per recreational vehicle space
Restaurants:	
Drive-in or fast food	1 space per 100 square feet <sup>1</sup>
Outdoor seating	1 space per 200 square feet <sup>1</sup>
Quick serve	1 space per 100 square feet <sup>1</sup>
Sit down _ served at table	1 space per 100 square feet <sup>1</sup>
Retail, general:	
Department store, market, etc.	1 space per 300 square feet <sup>1</sup>
Furniture or appliances	1 space per 600 square feet <sup>1</sup>
Sexually oriented business:	
Bar	1 space per 100 square feet <sup>1</sup>
Retail	1 space per 300 square feet <sup>1</sup>
Surplus sales	1 space per 300 square feet of both outdoor and indoor display area <sup>1</sup>
Teen club/young adult club	1 space per 100 square feet <sup>1</sup>
Veterinary service:	
Large animal hospitals	1 space per 200 square feet <sup>1</sup>
Small animal clinics	1 space per 200 square feet <sup>1</sup>
Civic use types:	
Administrative and safety services	1 space per 400 square feet <sup>1</sup>

Use Types		Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
	Cemetery	1 space per 400 square feet of office space <sup>1</sup>
	Club (membership):	
	Recreational clubs	1 space per 150 square feet <sup>1</sup>
	Social clubs:	
	Bar	1 space per 100 square feet plus 1 space per 400 square feet for office and remaining area <sup>1</sup>
	Crematory services	1 space per 400 square feet of office space <sup>1</sup>
	Cultural services	1 space per 750 square feet <sup>1</sup>
	Daycare services:	
	Daycare center	1 space per 400 square feet <sup>1</sup>
	Preschool	1 space per 400 square feet <sup>1</sup>
	Detention facilities	Per development plan
	Educational institutions:	
	Charter schools:	
	Elementary or junior high	2 spaces per classroom
	Senior high	1 space per 4 students
	College and university	0.5 space per faculty member and employee plus 1 space per 6 students
	Nonpublic schools:	
	Elementary or junior high	2 spaces per classroom
	Senior high	1 space per 4 students
	Proprietary schools	0.5 space per faculty member and employee plus 1 space per 6 students
	Public schools:	

Use Types		Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
	Elementary or junior high	2 spaces per classroom
	Senior high	1 space per 4 students
	Hospital	2 spaces per bed
	Maintenance and service facility	1 space per 200 square feet <sup>1</sup>
	Public assembly	1 space per 4 seats
	Public park and recreation services	Determined by Park Board
	Religious institution	1 space per 4 seats
	Semipublic community recreation	1 space per 4 seats
	Social service center:	
	Medical	1 space per 200 square feet <sup>1</sup>
	Office	1 space per 400 square feet <sup>1</sup>
	Retail	1 space per 300 square feet <sup>1</sup>
	Utility facilities	Per development plan
	Industrial use types:	
	Accessory retail sales	1 space per 300 square feet <sup>1</sup>
	Construction batch plant	1 space per 750 square feet <sup>1</sup>
	Construction or contractor yards	1 space per 750 square feet <sup>1</sup>
	Custom manufacturing	1 space per 750 square feet <sup>1</sup>
	Garbage service companies	1 space per 200 square feet <sup>1</sup>
	General industry:	

Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
Heavy	1 space per 750 square feet <sup>1</sup>
Light	1 space per 750 square feet <sup>1</sup>
Industrial laundry	1 space per 750 square feet <sup>1</sup>
Junkyard	1 space per 750 square feet <sup>1</sup>
Manufacturing	1 space per 750 square feet <sup>1</sup>
Meatpacking and related industry	1 space per 750 square feet <sup>1</sup>
Mining operations	1 space per 400 square feet of office space <sup>1</sup>
Recycling:	
Large recycling collection centers	1 space per 1,000 square feet <sup>1</sup>
Recycling processing centers	1 space per 1,000 square feet <sup>1</sup>
Research and development	1 space per 400 square feet <sup>1</sup>
Stockyards	1 space per 400 square feet of office space <sup>1</sup>
Transfer facility	1 space per 1,000 square feet <sup>1</sup>
Truck terminal	1 space per 200 square feet <sup>1</sup>
Vehicle dismantling yard	1 space per 400 square feet of office space <sup>1</sup>
Warehouse	1 space per 1,000 square feet <sup>1</sup>
Warehousing and distribution	1 space per 1,000 square feet <sup>1</sup>
Parking use types:	
Parking lot/surface parking	Per development plan
Parking structure	Per development plan



Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection <a href="#">7.3.712A</a> Of This Chapter
Transportation use types:	
Aviation facilities	Per development plan
Railroad facilities	Per development plan
Transit station	Per development plan
Transportation terminal	Per development plan
Agricultural use types:	
Community gardens	None

Note:

1. Square footage is based off the gross floor area within a particular business.

B. Mixed Uses: In the case of mixed uses (i.e., restaurant and hotel) and uses with two (2) or more different functional areas (i.e., warehouse with office, dining area within a convenience food store), the total requirement for off street parking spaces shall be the sum of the requirements for each of the various uses.

C. Commercial Centers: The commercial center parking space requirements listed in subsection A of this section shall apply regardless of the mix or number of different uses within the commercial center, when one of the following conditions exists:

1. The commercial center is specifically identified on the development plan as the approved land use;
2. A commercial development not specifically identified as a commercial center on the development plan is subsequently defined as a commercial center per subsection [7.2.302C9](#) of this chapter;
3. When evidence of common parking, access, and/or maneuvering agreements are provided; or
4. All common parking, access, and maneuvering areas are located on one lot and accessible to all tenants.

Freestanding buildings with one or two (2) uses within a commercial center shall provide parking spaces for the use(s) required based upon the approved use(s) and not be included as part of the overall center parking calculations.

D. Repair Bays: Within an automobile service station, repair garage, or other similar use repair bays shall not be counted as part of the required off street parking spaces.

E. Drive-Up Restaurant Parking: For restaurant types where food is ordered from, delivered to and consumed within a vehicle, the parking requirements shall be based upon the gross floor area of the building in which the food is prepared as well as the area of the parking stalls designed to accommodate in-vehicle food consumption.

F. Exception: Except as noted below, the City's parking requirements shall apply to TNDs: In neighborhood centers and for multi-family developments, directly adjacent on street parking may be counted toward meeting the minimum requirements of those neighborhood centers or multi-family developments. The provision of on site parking spaces shall not exceed one hundred twenty five percent (125%) of the minimum parking requirements as specified in this Zoning Code. Where shared parking is used, a shared parking and cross access agreement shall be recorded. Where shared parking is used, the parking requirements for those uses may be reduced a maximum of twenty percent (20%). (Ord. 86-124; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 02-97; Ord. 02-125; Ord. 02-153; Ord. 03-157; Ord. 06-55; Ord. 09-50; Ord. 09-74; Ord. 09-75; Ord. 10-107; Ord. 12-66; Ord. 17-8)

#### **7.4.204: ALTERNATIVE PARKING OPTIONS:**

A. Purpose: If the conditions of this section are met, the minimum off street parking requirements in section [7.4.203](#) of this part may be adjusted.

Adjustments to the minimum off street parking requirements may be requested as part of a new or amended development plan. Adjustments to the minimum off street parking requirements will not be considered in conjunction with a request for administrative relief for off street parking. The minimum number of off street parking spaces to be provided for single-family detached residences may not be adjusted.

B. On Street Parking Credit: If the conditions of this subsection B are met, the Manager may count certain on street parking spaces as off street parking spaces for purposes of the minimum off street parking requirements in section [7.4.203](#) of this part.

1. Conditions For On Street Parking Credit: The Manager may count immediately adjacent on street parking in determining whether the minimum off street parking requirements for a particular proposed use have been met if all of the following conditions are satisfied:

- a. The City street immediately adjacent to the subject property allows on street parking; and
- b. The subject property has a minimum lot width of thirty feet (30') adjacent to the street containing the on street parking spaces; and
- c. The scope, scale and other characteristics of the proposed use(s) are such that counting on street parking toward the minimum off street parking requirement would not generate significant off site impacts upon neighboring properties.

2. On Street Parking Credit Submittal Requirements: Requests for on street parking credit shall be made as part of the project statement for a submitted new or amended development plan. The request for on street parking credit shall provide the following information:

- a. A written project statement detailing the request addressing how the site meets the applicable conditions; and
- b. A parking plan showing the calculations of the required number of parking spaces including the on street parking spaces, dimensions and locations of all on site parking spaces, including drive aisles and abutting alley width, if applicable, and an on street parking analysis that describes local on street demand, the potential off site impacts that would result from granting the on street parking credit request, and the overall appropriateness of the request; and
- c. A statement that a formal written parking evaluation would reveal that additional on site parking is not available and/or not feasible.

3. Use Of On Street Parking: On street parking spaces shall be used for vehicular parking only. No sales, rental, storage, repair, servicing of vehicles, equipment or materials, dismantling, or other activities shall be conducted or located in such areas. On street spaces cannot be designated as private or reserved for the adjacent use.

C. Reduction In Minimum Parking Space Requirement: In lieu of or in addition to on street parking credit, if the conditions of this subsection C are met the Manager may approve a reduction in the minimum number of off street parking spaces for a particular use associated with a specific application in any zone district:

1. Conditions For Reduction: If the applicant demonstrates one or more of the following conditions, the Manager may reduce the minimum number of off street parking spaces required for a particular use in section [7.4.203](#) of this part for a new or amended development plan submittal:

- a. The subject property is located within four hundred feet (400') by direct pedestrian access of a public transit stop;
- b. The subject property is located within four hundred feet (400') by direct pedestrian access of a designated bike route or City trail;
- c. The subject property is located within four hundred feet (400') by direct pedestrian access of a City or privately owned parking lot or parking ramp that has publicly available parking spaces; and/or
- d. That parking requirements for the use(s) are satisfied by a shared parking arrangement, subject to the following:
  - (1) The shared parking arrangement must be memorialized in a written agreement that provides for shared parking and access and the writing is recorded in the office of the county clerk and recorder.
  - (2) The location of the shared parking is on a parcel or parcels adjacent to the subject property within four hundred feet (400') by direct pedestrian access.

The Manager may reduce the minimum on site parking requirement by five percent (5%) for each of the conditions in subsections C1a, C1b, and C1c of this section. The Manager may reduce the minimum on site parking requirement by up to twenty percent (20%) for approved shared parking arrangements under subsection C1d of this section. The maximum reduction of the minimum on site parking requirement allowed under this subsection is thirty five percent (35%).

2. Additional Considerations: In addition to the conditions contained in subsection C1 of this section, the Manager may consider the following additional factors in determining whether a parking requirement reduction is appropriate for a given use(s):
    - a. The scope, scale and other characteristics of the proposed use(s) are such that granting the parking requirement reduction would not generate significant off site impacts upon neighboring properties; and
    - b. The parking requirement reduction will not limit the use of the subject property.
  3. Additional Requirements: In granting a reduction of the minimum off street parking requirements, the Manager may require one or more of the following:
    - a. Modifications to the new or amended development plan to include bicycle parking/racks to provide for a minimum of one bike rack that can accommodate a minimum of five (5) bikes for every ten (10) required parking stalls be provided.
    - b. Modifications to the new or amended development plan to include one or more motorcycle designated stalls (dimensions of stalls to be determined with review).

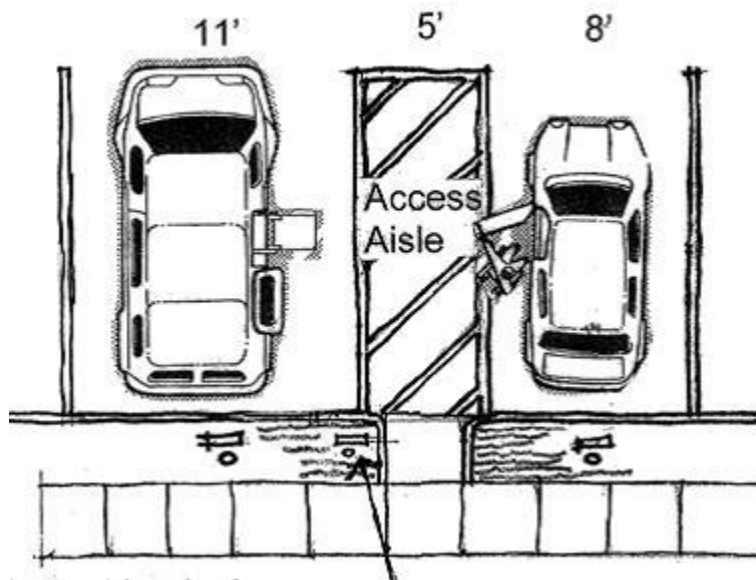
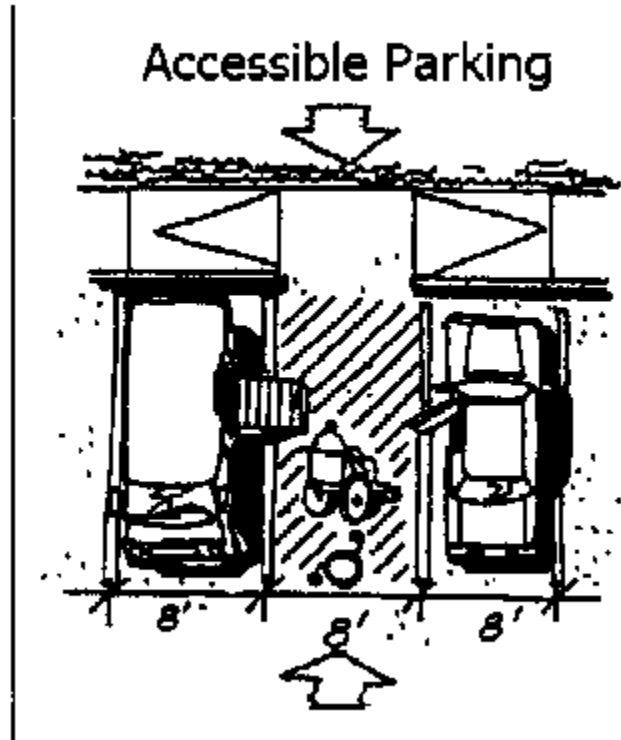
Up to four (4) motorcycle parking spaces may be permitted in lieu of two (2) standard parking spaces and may count toward the required total parking. A minimum of five (5) parking spaces shall be provided before any motorcycle spaces can replace a required parking space.
    - c. Improvements within the public right(s) of way to better accommodate either on street parking or pedestrian access, which may include curb and gutter, sidewalk or other improvements that the City's Engineering Department determines to be necessary.
    - d. A formal analysis/evaluation of the existing on site parking configuration to determine if the site can accommodate additional parking and/or if parking can be reconfigured to maximize on site parking availability. If additional parking can be provided through a reconfiguration, it may be made a condition of approval of the requested parking reduction.
- D. No Changes To Use: A development plan amendment shall be required prior to any change in use of the subject property that would result in increased parking demand for any property which was granted an alternative parking adjustment. (Ord. 17-8)

#### **7.4.205: ACCESSIBLE PARKING SPACE REQUIREMENTS FOR THE DISABLED:**



- A. Dimensions: The minimum width of an accessible parking space shall be eight feet (8') with an adjacent accessible aisle with a minimum width of five feet (5'). The minimum width of a "van accessible" parking space shall be eight feet (8') if served by an adjacent accessible aisle which has a minimum width of eight feet (8') or eleven feet (11') if served by an adjacent accessible aisle which has a minimum width of five feet (5'). Two (2) accessible parking spaces may share a common aisle. Access aisles shall not contain built up curb ramps. Except as otherwise provided in this subsection, van accessible parking spaces, access aisles and vehicular routes serving them shall have a vertical clearance of at least ninety eight inches (98"). Where required, van accessible spaces located within private garages of attached dwelling unit, multi-family dwelling, dormitory, fraternity or sorority house, retirement home, rooming or boarding house, religious

institution, single-family detached, accessory dwelling unit, and two-family dwelling uses and the access aisles, vehicular routes, and entrances serving them shall have a vertical clearance of at least eighty four inches (84"). The length of an access aisle shall be the full length of the parking spaces served as shown in the following pictures:



B. Number Required:

1. Where parking is required under this part and except as otherwise provided in this subsection, accessible parking spaces shall be provided in accordance with the table below. Spaces required by this section shall count toward fulfilling off street parking requirements. One in every six (6) accessible parking spaces with a minimum of one shall be van accessible.

<b>Number Of Parking Spaces Provided</b>	<b>Number Of Accessible Spaces Required</b>	<b>Number Of Van Accessible Spaces Required</b>
1 - 25	1	1
26 - 50	2	1
51 - 75	3	1
76 - 100	4	1
101 - 150	5	1
151 - 200	6	1
201 - 300	7	2
301 - 400	8	2
401 - 500	9	2
501 - 1,000	2 percent of total	$\frac{1}{6}$ of number of accessible spaces required
1,001 and over	20 plus 1 for each 100 over 1,000	$\frac{1}{6}$ of number of accessible spaces required

2. At least two percent (2%), but not less than one, of each type of parking space provided for attached dwelling unit, multi-family dwelling, dormitory, fraternity or sorority house, retirement home, rooming or boarding house, religious institution, single-family detached, accessory dwelling unit, and two-family dwelling uses shall be accessible.
3. At least ten percent (10%), but not less than one, of patient and visitor parking spaces provided to serve hospital outpatient facilities shall be accessible.
4. At least twenty percent (20%), but not less than one, of the patient and visitor parking spaces provided to serve human service facilities specializing in treating conditions that affect mobility and outpatient physical therapy facilities shall be accessible.

5. This subsection does not apply to parking spaces used exclusively for buses, trucks, delivery vehicles, law enforcement vehicles or vehicular impound provided that lots are accessed by the public are provided with an accessible passenger loading zone.
6. Single-family and multi-family developments with four (4) units or less are not required to provide accessible spaces.

C. Location:

1. Except as otherwise provided in this subsection, accessible parking spaces shall be located so as to provide the shortest accessible route to an accessible building entrance unobstructed by curbs, ingress/egress lanes or other obstacles. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest route to an accessible pedestrian entrance to the parking facility. Route of travel from accessible parking spaces shall not require persons to move in vehicle circulation paths unless all or a portion of the vehicular circulation path is provided for pedestrian travel such as within a shopping center or shopping mall parking lot.
2. In multilevel parking structures, van accessible parking spaces are permitted on one level.
3. Accessible parking spaces shall be permitted to be located in different parking facilities if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance or entrances, parking fee and user convenience.

D. Curb Ramps And Accessible Routes: Curb ramps and accessible routes shall be provided which allow unobstructed travel from an accessible parking space to the accessible building entrance. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding one to fifty (1:50) (2 percent) in all directions.

E. Markings: Accessible parking spaces shall be marked with four inch (4") lines. Access aisles shall be outlined and diagonally striped at forty five degree (45°) angles in a contrasting color such as yellow, white, or blue so as to discourage parking in them.

F. Signs: Except as otherwise provided in this subsection, each accessible parking space shall be designated as reserved by a sign showing the International Symbol of Accessibility. Van accessible spaces shall have an additional sign containing the designation, "van accessible", mounted below the symbol of accessibility. Each accessible parking space sign shall be no smaller than eighteen inches (18") tall by twelve inches (12") wide. Each van accessible sign shall be no smaller than six inches (6") tall by twelve inches (12") wide. Signs shall be located at the head of the space with the bottom of the sign(s) between five feet (5') and seven feet (7') above the finish floor or ground surface. Access aisles should post "Wheelchair Access Aisle Absolutely No Parking" signs which block neither the access aisle nor any related accessible route. The signs may either be wall mounted or freestanding. These sign requirements shall not apply where four (4) or fewer parking spaces are provided on a site. (Ord. 94-107; Ord. 01-42; Ord. 02-110; Ord. 12-76; Ord. 17-8; Ord. 19-12)

#### **7.4.206: GENERAL PROVISIONS, RESTRICTIONS, AND PROHIBITIONS:**

A. Automobile Display Or Storage Areas: Required parking, maneuvering, or access areas shall not be used for display or storage of automobiles. Display or storage areas shall be delineated on required plans.

B. Backing Across Property Lines: No parking space shall be permitted where the unparking vehicle must be backed across any property line adjacent to a public right-of-way except for the following:

1. Within a TND Zone,
2. For single- and two-family residences, or
3. Parking space is perpendicular to a City alley. The unparking vehicle may back across a public right-of-way if approved by the Manager and the parking meets the following standards:
  - a. The parking space does not cross over an existing public sidewalk, and
  - b. The property owner has no other viable means to provide the required off street parking spaces.

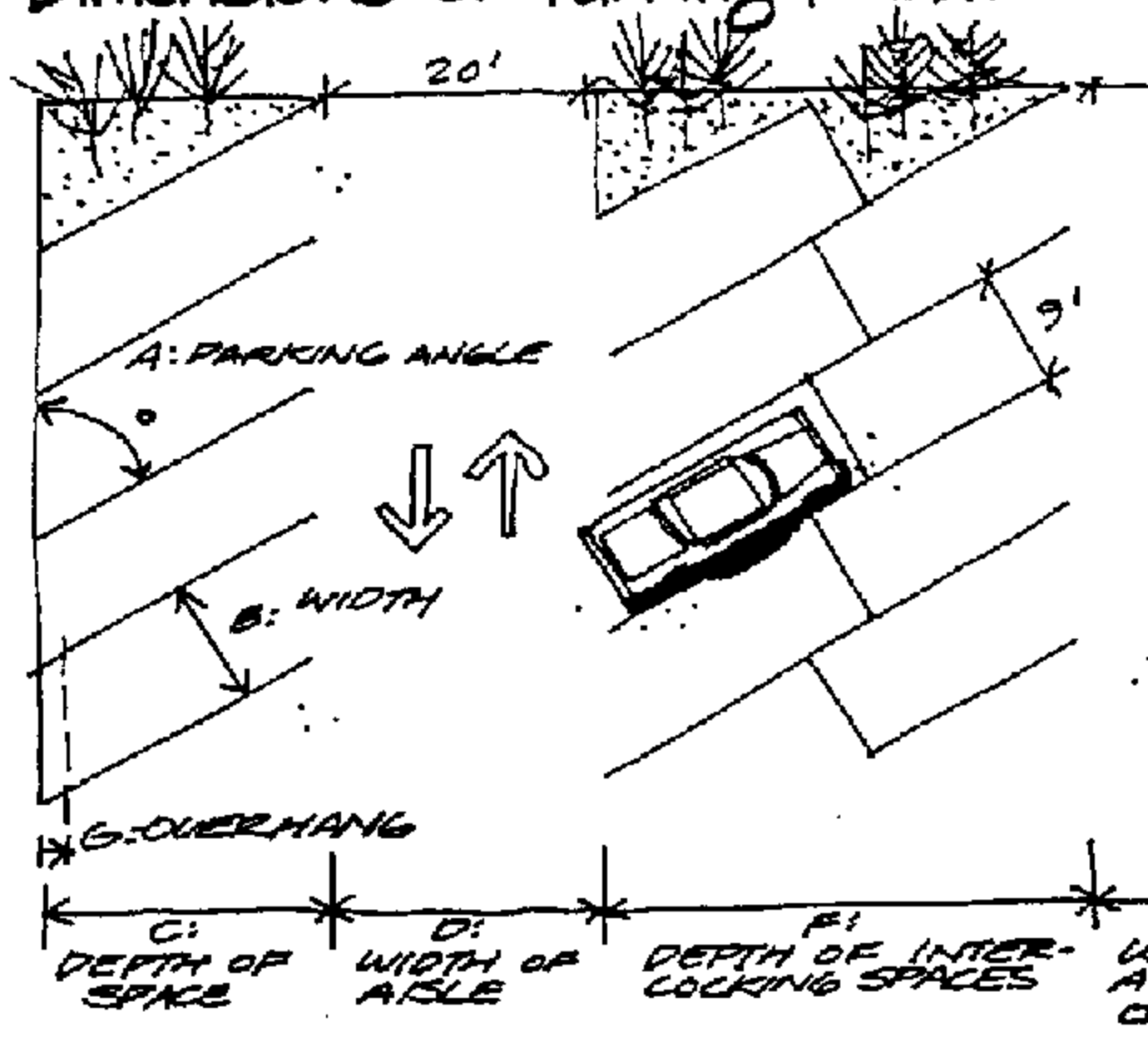
C. Compact Spaces: Up to forty percent (40%) of the required off street parking spaces may be compact spaces. However, there shall be no limit on the number of compact spaces which may be provided as additional or surplus parking. Dimensions for compact spaces are shown in the following table of this section. Compact spaces shall be designated as such. An exception to the forty percent (40%) provision is listed in this part.

D. Dimensional Requirements: Dimensions of all parking or maneuvering areas in open parking lots and inside structures or garages shall be provided, except for accessible parking spaces for the disabled which shall be provided as described in this part. The access aisle shall have slope requirements of no greater than one-fourth inch ( $\frac{1}{4}$ " ) rise per foot of run (1:48). The paved depth of parking spaces may be decreased by the overhang dimensions indicated in the following sections, providing that the following conditions are met:



# DIMENSIONAL REQUIREMENTS FOR PARKING MANUEVERING AREAS

## Dimensions of Parking & Maneuver



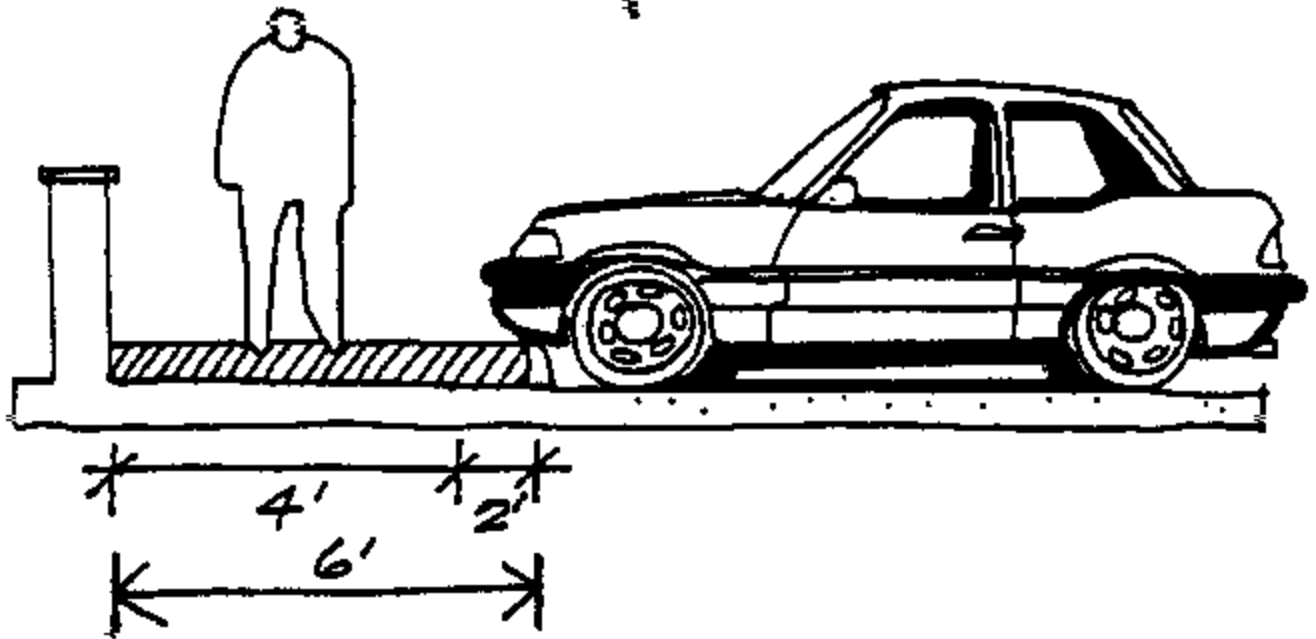
A	B	C	D	E	F	G	Compact Spaces			
Parking Angle	Width Of Space	Depth Of Space	Width Of Two-Way Aisle	Width Of One-Way Aisle	Depth Of Interlocking Spaces	Depth Of Overhang	B	C	F	G
0°	9	22	20	12	18	0	8	20	16	0
30°	9	17	*	12	26	1.5	8	15	23	1.5
45°	9	19	20	12	32	1.5	8	17	29	1.5
60°	9	20	20	16	35.5	2	8	18	32	2
75°	9	19.5	22	18	37	2	8	17.5	33	2
90°	9	18	24	24	36	2	8	16	32	2

Note:

\* Not allowable.

1. No sidewalk shall be decreased to less than four feet (4') in width by use of a vehicle overhang. No overhang is permitted into a sidewalk that is located within a public right of way.

# Dimensional Requirements



2. No required landscaped area shall be reduced by use of an overhang.

## E. Driveways:

1. Uses Other Than A One- Or Two-Family Dwelling: Any driveway providing access to a parking area for a use other than a one-family or two-family residence shall be a minimum of twenty feet (20') in width where two-way traffic is allowed and a minimum of twelve feet (12') in width where one-way traffic is allowed. A driveway aisle for miniwarehouse or self-storage facilities shall be a minimum width of twenty four feet (24'); where storage units are on one side of the aisle only, the aisle may be twenty feet (20') in width. Location, design and width of any driveway that intersects with a public street shall be subject to the specifications as outlined in the Department of Transportation policy and design standards. Where driveways are used to satisfy City Fire Code regulations for Fire Department vehicular access, additional widths, turning radius, and structural design features are often required. Contact the Colorado Springs Fire Department to determine their distinctive requirements.
2. One- Or Two-Family Dwelling Units: Where driveways are used to satisfy City Fire Code regulations for Fire Department vehicular access, additional widths, turning radius, and structural design features are often required. Contact the Colorado Springs Fire Department to determine their distinctive requirements.

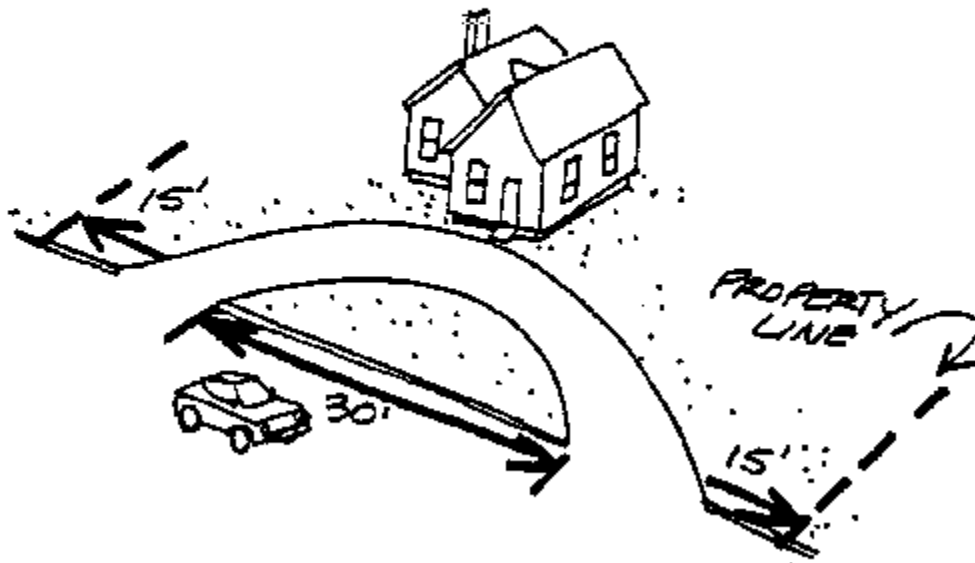
## a. Lot Coverage:

- (1) On lots with widths (at the front setback line) of less than seventy five feet (75') no more than forty five percent (45%) of the required front yard, as measured from the front lot line to the front setback line, shall be used as driveway or parking area.
- (2) On lots with widths (at the front setback line) of seventy five feet (75') or greater no more than forty percent (40%) of the required front yard, as measured from the front lot line to the front setback line, shall be used as driveway or parking area.

b. Circular Driveways: Circular driveways shall conform to the following standards:

- (1) The two (2) drive ingress/egress points shall be separated by a minimum of thirty feet (30'), at their closest points measured at the property line.
- (2) The edge of the drive pavement at the point where it intersects with the street shall be located no closer than fifteen feet (15') from the adjoining property line.

## Driveway / Circular



- (3) In areas subject to the hillside overlay, circular driveways shall be allowed if they do not result in a loss of significant vegetation and/or natural features. In administering this standard, consideration shall be given to quantity of loss compared to the vegetation/natural features which will remain on the lot or project area. Consideration shall also be given to conformance with the hillside overlay development review criteria as set forth in article 3, part 5 of this chapter.

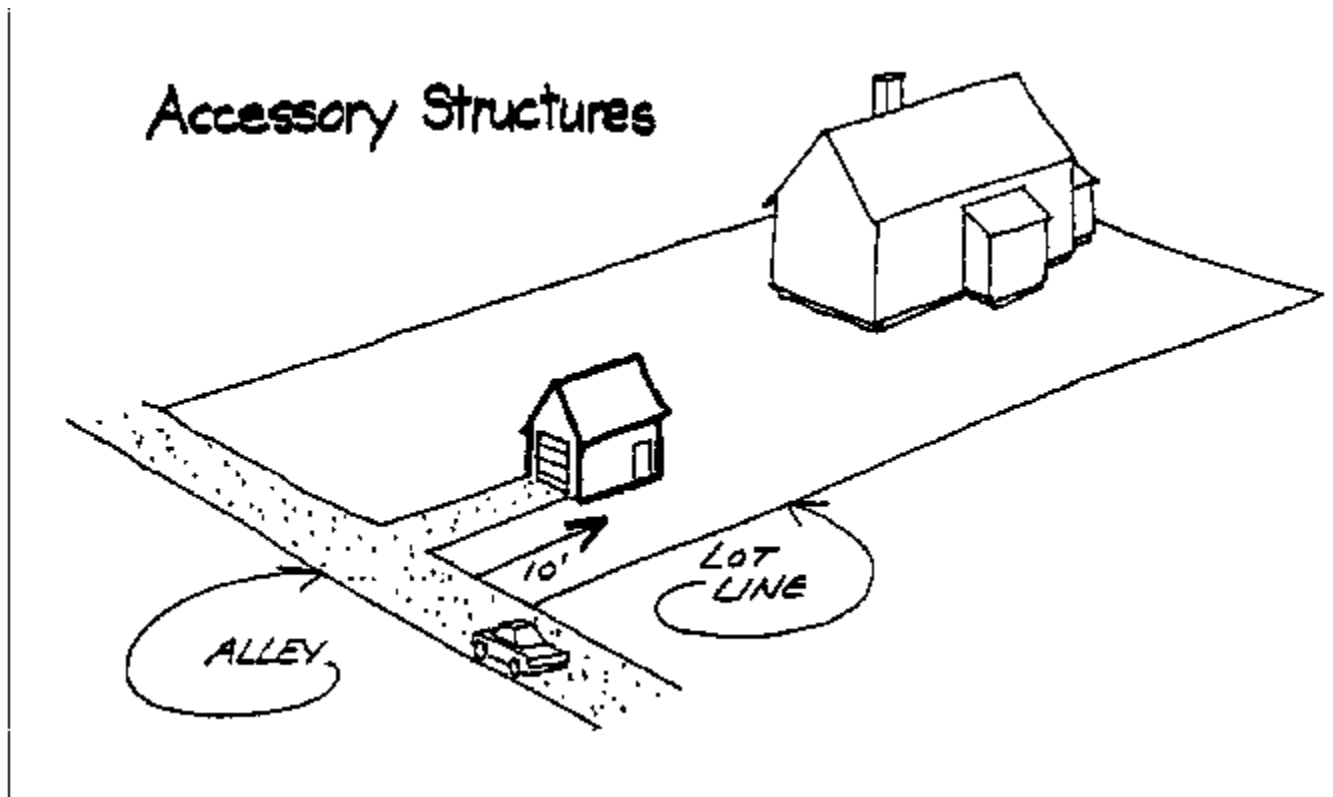
c. Driveway Width: Driveway width shall not exceed twenty four feet (24') at the front property line.

d. Driveway Depth: The minimum driveway depth on a lot zoned R-estate, R-1 9000, R-1 6000, R-2, R-5, SU or with a design flexibility overlay zone (DFOZ) shall be twenty feet (20') to provide proper clear distance for vehicles when parked on private property. The point of measurement beginning from either:

- (1) The front property line of the subject lot to a distance twenty feet (20') into the property; or
- (2) From the nearest edge of sidewalk closest to the home in situations where the sidewalk is located on private property within a sidewalk easement.

e. Administrative Relief: Administrative relief from this subsection E may be requested in accord with article 5, part 11 of this chapter.

F. Garage Setback: A detached or attached garage where the doors providing vehicular access are adjacent to an alley or access easement shall be required to have a minimum setback of ten feet (10') from such alley or access easement or meet the zone district minimum setbacks, whichever is greater. This ten foot (10') setback shall not apply in the TND zone. See article 3, part 9 of this chapter for specific standards.



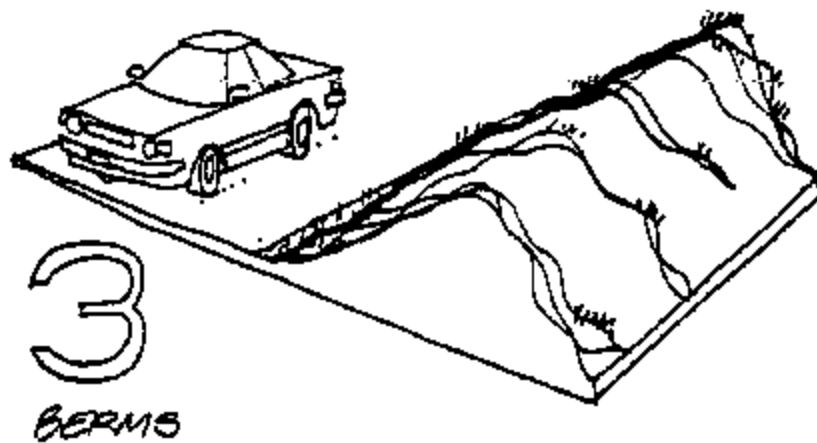
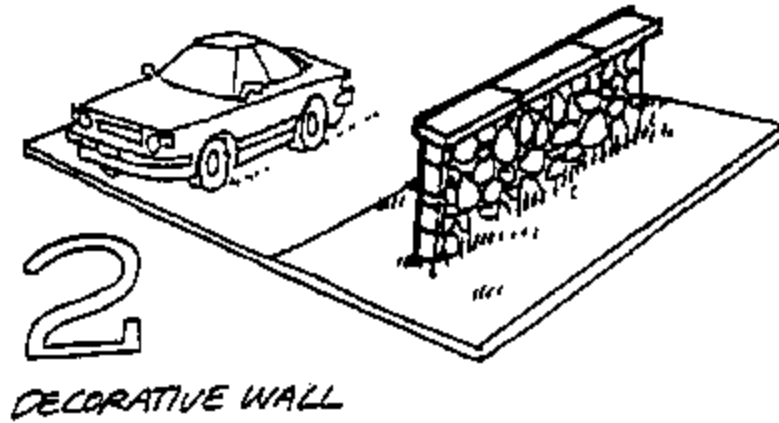
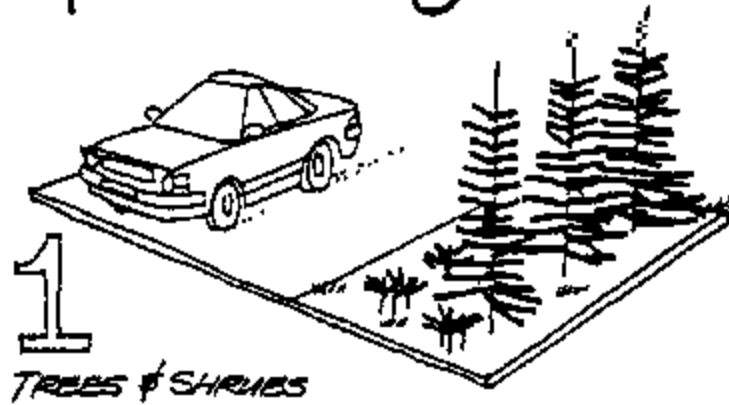
G. Parking Landscaping:

1. Required Trees: In a parking lot with fifteen (15) or more spaces which is not inside a garage, one tree of a type suitable for parking lots shall be provided for every fifteen (15) vehicular parking

spaces. For compliance with this section, in an automobile sales business, every two hundred fifty (250) square feet of area used for display or storage shall represent one parking space. The tree types and minimum planter sizes shall be consistent with the landscape policy manual prepared by the Community Development Department. The required trees may be clustered but shall be located to divide and break up expanses of paving and long rows of parking spaces and to create a canopy effect in the parking lot. In order to be considered within the parking lot, the trees must be located in planters that are bounded on at least three (3) sides by parking lot paving; only trees in landscaped "islands" or "fingers" can count toward the parking lot tree requirement. Planters shall be of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles. Administrative relief of the requirements of this subsection may be requested.

2. Required Screening: Open parking spaces except in one-family and two-family residential projects in any zone district shall be screened from view from adjacent properties and streets to an eventual minimum height of three feet (3') by the use of berms and/or plantings. A minimum of two-thirds ( $\frac{2}{3}$ ) of the affected street frontage or property boundary, but not counting intersecting driveways, must have the required screen. The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas such as sodded berms and planting beds shall be consistent with the landscape policy design manual prepared by the Community Development Department. Structures such as decorative walls or fences may be approved through an administrative relief request if the Manager finds that:

# Required Screening



a. The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees; or

b. The total use of berms and/or plantings is not physically feasible; or

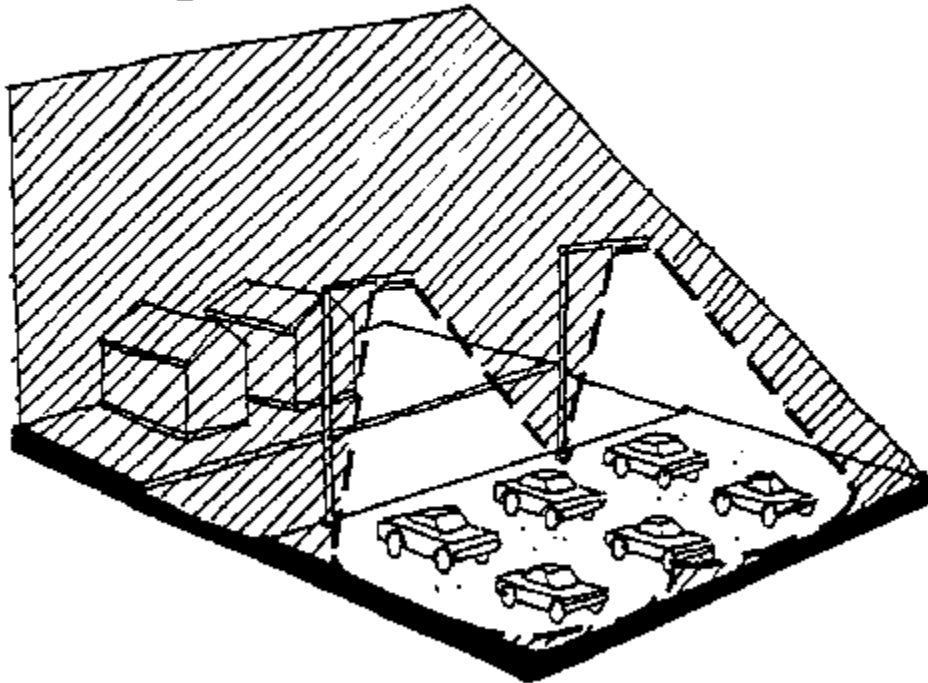
c. The structures attractively complement the use of berms and/or plantings.

The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas such as sodded berms and planting beds shall be consistent with the landscape policy design manual prepared by the Community Development Department.

Administrative relief from the requirements of this subsection may be requested according to article 5, part 11 of this chapter.

H. Lighting: Lights used for illumination of parking areas and driveways shall be directed away from adjacent properties and rights of way so as to confine direct rays to the site.

Lighting



I. Loading Spaces And Areas: For any industrial use, off street loading spaces and maneuvering areas shall be provided on the same lot in accord with the schedule listed below. Maneuvering or access areas may be located on adjacent lot(s) as long as a recorded document is provided for common use and maintenance.

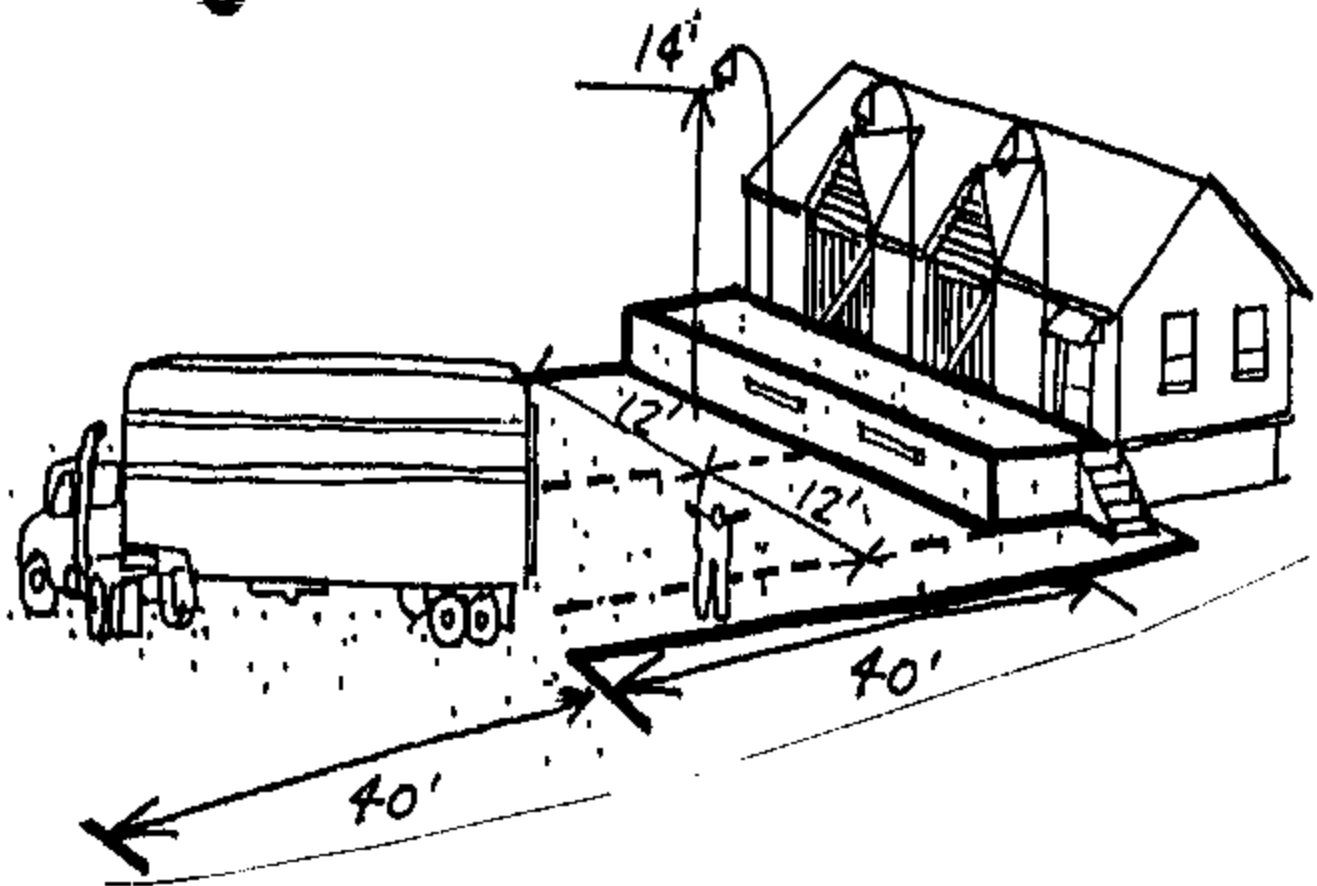
<u>Square Footage Of Building</u>	<u>Number Of Spaces</u>
-----------------------------------	-------------------------



Up to 3,000	0
3,001 to 20,000	1
20,001 to 80,000	2
80,001 to 140,000	3
For each additional 100,000	1 additional

The minimum dimensions of an off street loading space are twelve feet (12') wide by forty feet (40') long, with a minimum vertical clearance of fourteen feet (14'). A minimum maneuvering aisle width of forty feet (40') shall be provided behind the off street loading space.

# Loading Dock



J. Parking Location: Unless placed in a tract for common use, all required off street parking spaces shall be located on the same lot as the use. Access or maneuvering areas may be located on adjacent lot(s) only if a recorded document is provided for common use and maintenance. The easement or tract shall be established by a statement on the recorded plat or separate recorded document. The recorded documents shall state that the easement or tract is to be used and maintained by all the lot owners within the development.

No part of the off street parking or maneuvering area for any use, except one-family or two-family dwellings, shall be located in any portion of any required front landscape setback. In the R, R-1 9000, R-1 6000, and R-2 zones, the parking lots for religious institutions shall have a minimum front setback of twenty five feet (25'). Driveways may cross the required front yards to provide access for off street parking or loading requirements.

K. Paving: The surface of all parking spaces, drives, aisles, maneuvering and automobile outdoor sale and/or rental display or storage areas shall be paved. For the purpose of this section, "paving" shall mean covered with semipermeables, asphalt, concrete, brick, pavers, or other similar surfaces which may be approved by the Manager.

Driveways and parking areas for single-family dwellings shall be surfaced with semipermeables, asphalt, concrete, brick, pavers, crushed stone or other similar surfaces which may be approved by the Manager.

L. Perimeter Enclosures: Except for parking areas provided for one-family or two-family residences, the perimeter of all parking, maneuvering, driveways, and automobile display or storage areas shall be enclosed by a permanent wall, fence, curb, or wheel or bumper barrier. The barrier must be a minimum of four inches (4") in height. A discontinuous barrier may be used as long as the horizontal separation between barriers does not exceed four feet (4').

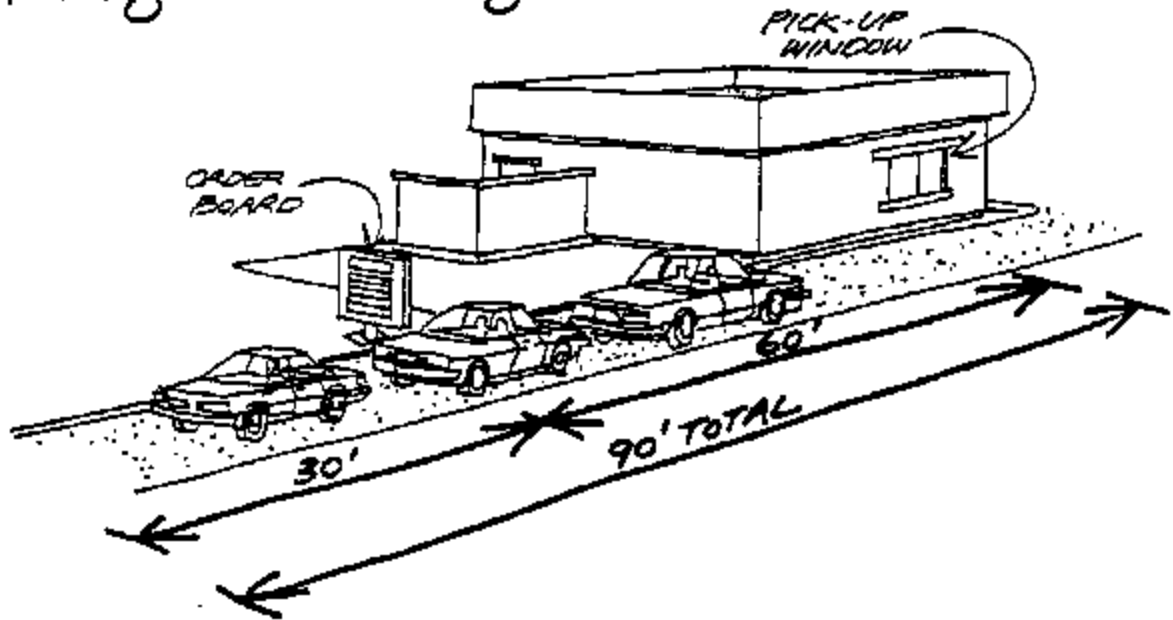
M. Signs: Directional signs for parking, maneuvering or drive areas are subject to the provisions of part 4 of this article.

N. Striping: Except for parking spaces for one-family or two-family residences, all parking spaces shall be clearly delineated or striped and the striping shall be maintained so it is visible. Striping shall not be required for automobile display or storage areas.

O. Stacking Lanes For Drive-Through Facilities: Automobile stacking lanes for drive-through uses shall be provided according to the following:

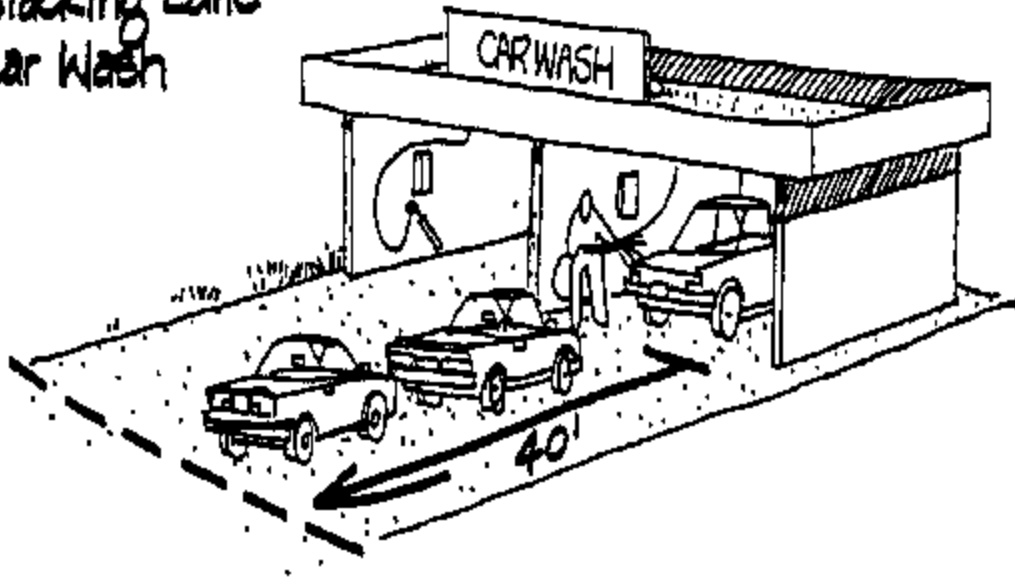
1. Restaurants shall provide ninety feet (90') behind each order and pick up window, or if the functions are separated, thirty feet (30') behind an order board, and sixty feet (60') behind the pick up window.

## Stacking for Drive-Through



2. Financial institutions and/or financial transaction facilities (i.e., bill payment windows) shall provide seventy feet (70') behind each window or transfer facility. Where more than one window or transfer facility is provided, the stacking lanes may be distributed in twenty foot (20') increments among the various lanes as long as no lane is less than thirty feet (30') in length.
3. A car wash shall provide forty feet (40') behind each bay or stall.

Stacking Lane  
car Wash



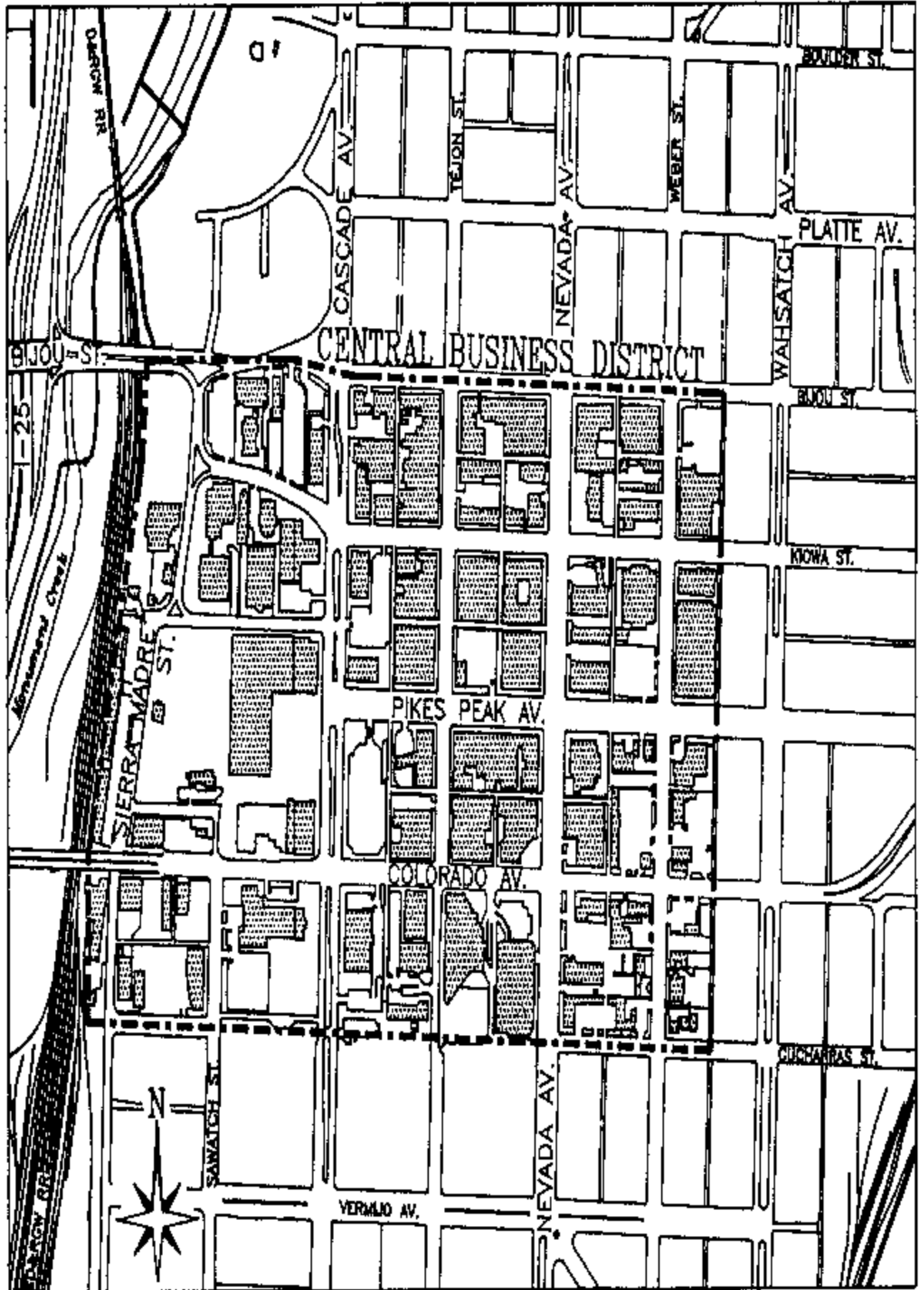
4. The minimum width of a drive-through lane shall be eight feet (8').
5. Required drive-through stacking lanes shall not intersect with pedestrian access to a public entrance of a building.
6. Each drive-through lane shall be striped, marked or otherwise distinctly delineated.
7. Driveways in conformance with this section shall be provided to all stacking lanes.

P. Tandem Parking: A parking space that is blocked by a tandem parking space shall not count toward fulfilling off street parking requirements. A tandem parking space is a parking space located so that it abuts a second parking space such that vehicular access to that second space can only be made through the abutting (tandem) space. An exception to this provision is listed in this part. (Ord. 86-124; Ord. 86-229; Ord. 89-4; Ord. 91-30; Ord. 91-160; Ord. 94-107; Ord. 95-143; Ord. 00-11; Ord. 01-42; Ord. 02-153; Ord. 03-122; Ord. 03-157; Ord. 04-111; Ord. 08-44; Ord. 09-74; Ord. 09-75; Ord. 09-80; Ord. 12-76; Ord. 17-8)

#### 7.4.207: PARKING EXEMPT DISTRICTS:

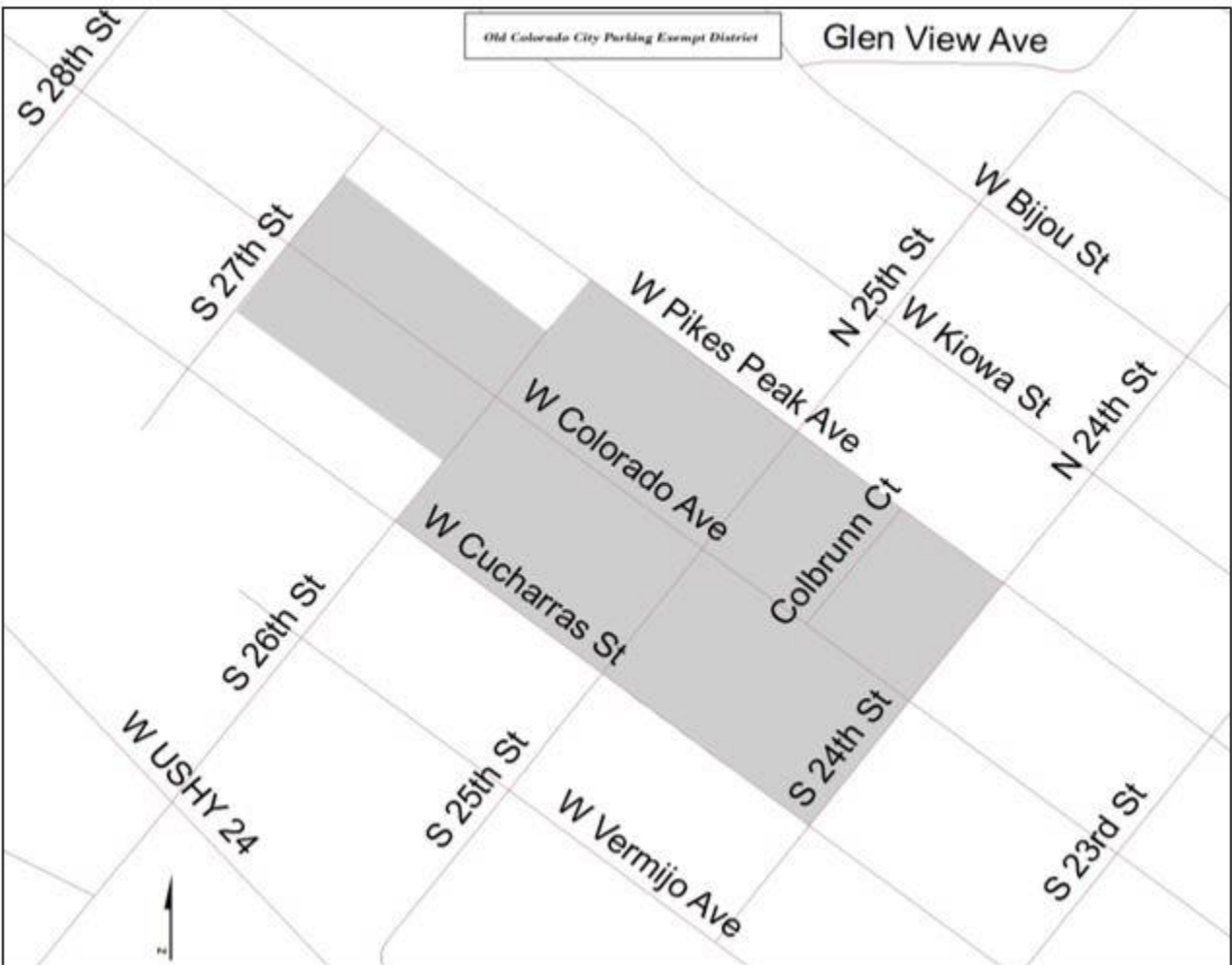
The areas described below are exempt from the provision of the minimum number of off street parking spaces for specific uses as required by this part.

- A. Central Business District: Bounded on the north by Bijou Street, the east by the alley between Weber Street and Wahsatch Avenue, the south by Cucharras Street and the west by the railroad right of way.



CENTRAL BUSINESS DISTRICT

B. Old Colorado City District: The area bounded on the north by the south line of West Pikes Peak Avenue, on the south by the north line of West Cucharras Street, on the east by the west line of South 24th Street, and on the west by the east line of 26th Street. The district also includes the half block bounded at the west by the east side of South 27th Street, bounded at the north by the south line of the alley between West Colorado Avenue and West Pikes Peak Avenue, the half block bounded at the south by the north line of the alley between West Colorado Avenue and West Cucharras Street, and at the east by the east side of South 26th Street.



(Ord. 94-107; Ord. 01-42; Ord. 16-84; Ord. 17-8)

**7.4.208: ADMINISTRATIVE RELIEF TO SAVE VALUABLE TREES:** 🌍 📄

The purpose of this section is to provide flexibility in the application of parking requirements and design guidelines for use when strict application of the parking regulations will require the removal of existing valuable trees. The City recognizes that healthy, mature trees provide important visual and

environmental contributions to neighborhoods; that a long amount of time was required to establish the large, mature trees; and that the tree's value is not easily replaced if it is removed or destroyed.

A. Application: A written request for administrative relief in conformance with this Zoning Code shall be submitted. The request shall also include a parking lot plan which shows the layout of spaces, aisles and access points and the location, size and species of the trees to be saved.

B. Findings Necessary To Grant Administrative Relief: In addition to making the findings required in the administrative relief regulations listed in this Zoning Code, the representative from the Community Development Department must also make all of the following findings in order to grant administrative relief:

1. The strict application of parking requirements and design guidelines listed in this section will cause the removal or destruction of an existing valuable tree.
2. The applicant is not proposing the most intensive use allowed in the zone. Other uses requiring fewer off street parking spaces are permitted so the applicant has reasonable use of the property. The level of intensity is determined by the off street parking space ratio listed in this part.
3. The City Forester has determined that:
  - a. The tree is healthy; and
  - b. The tree is of high value and/or rare; and
  - c. The diameter at breast height (dbh) is a minimum of eight inches (8"); and
  - d. Necessary measures needed to assure continued tree health will be used in the site design.
4. The Traffic Engineer has determined that the surrounding property will not be adversely impacted by the reduction of the number of required off street parking spaces.
5. The intent of the Zoning Code is preserved.

C. Administrative Relief That May Be Granted:

1. In order to provide greater flexibility in satisfying parking requirements to save valuable trees, the following administrative relief may be granted:
  - a. The prohibition against backing across a property line may be waived for those parking spaces accessed from an alley if the unparking vehicle is clearly visible from both alley directions.
  - b. One hundred percent (100%) of all required off street parking spaces may be compact spaces.
  - c. The prohibition against tandem parking spaces fulfilling off street parking requirements may be waived.
2. If the relief permitted under subsections C1a, C1b and/or C1c of this section is insufficient to preserve the valuable tree(s), a reduction of up to twenty percent (20%) of the minimum number of



off street parking spaces required by this part may be permitted if necessary to save the valuable tree(s).

D. Appeals: A decision of the Community Development Department may be appealed in conformance with the administrative relief regulations listed in this Zoning Code. (Ord. 87-133; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-80; Ord. 17-8)

## **PART 3 LANDSCAPING STANDARDS**

**7.4.301: PURPOSE:**

**7.4.302: OBJECTIVES:**

**7.4.303: DEFINITIONS:**

**7.4.304: LANDSCAPE POLICY MANUAL:**

**7.4.305: APPLICATION OF LANDSCAPING REQUIREMENTS:**

**7.4.306: LANDSCAPE ADMINISTRATIVE RELIEF:**

**7.4.307: ALTERNATIVE COMPLIANCE:**

**7.4.308: REQUIRED PLAN SUBMITTALS AND REVIEW:**

**7.4.309: INSTALLATION, VERIFICATION AND DEFERRAL:**

**7.4.310: MAINTENANCE ASSURANCE:**

**7.4.311: SIGNATURE LANDSCAPES:**

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**7.4.313: LANDSCAPE GRADING PLAN:**

**7.4.314: IRRIGATION PLAN:**

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**7.4.316: CONSERVATION OF ON SITE PLANTS:**

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**7.4.318: FIRE DEPARTMENT AND UTILITIES CONSTRAINTS:**

**7.4.319: MAINTENANCE OF REQUIRED LANDSCAPING:**

**7.4.320: LANDSCAPE SETBACKS, DOUBLE FRONTAGE LOT STREETSCAPES, AND STREET TREES:**

**7.4.321: MOTOR VEHICLE LOTS:**

**7.4.322: INTERNAL LANDSCAPING:**

**7.4.323: LANDSCAPE BUFFERS AND SCREENS:**

**7.4.324: STREET TREES IN PARKWAYS:**

**7.4.301: PURPOSE:**  

The purpose of this part is to establish requirements for the design, installation and maintenance of landscapes that contribute ecologically and aesthetically to the growth and economic prosperity of the City; that achieve healthy, attractive, and safe environments according to recognized water conservation principles; and that conserve, protect and promote the unique natural identity and environment of the City. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 98-68; Ord. 01-42)

#### **7.4.302: OBJECTIVES:**

A. Water Conservation: Conserve potable and nonpotable water resources through:

1. The use of Xeriscape principles;
2. The use of site specific plant material matched to the soil type and microclimate;
3. The conservation of indigenous plant communities;
4. The promotion of landscapes that require minimal supplemental irrigation; and
5. The establishment of minimum standards for the selection, installation and maintenance of landscape materials, and for site grading and irrigation systems.

B. Aesthetics: Enhance the regional landscape character of the City through:

1. The incorporation of native and compatible introduced plants, plant communities and ecosystems into landscape design;
2. Encourage the incorporation of open space in ways that harmonize and enhance the natural and built environment;
3. Enhance the streetscapes along the City's public rights of way with an emphasis on trees;
4. Define and separate vehicular and pedestrian traffic areas;
5. Screen the appearance of motor vehicle lots from public rights of way and adjacent properties;
6. Screen objectionable and higher intensity uses from lower intensity uses; and
7. Enhance the appearance of structures.

C. Environmental Quality: Improve environmental quality through the beneficial effects of landscaping, which include:

1. Air purification, oxygen regeneration, wind reduction, ground water recharge, stormwater detention, and permeable land surface maintenance;
2. Mitigation of the urban heat island effect through evapotranspiration and the creation of shade; and the reduction of heat and glare through biological filtering;
3. Conservation of native plant communities, significant vegetation and natural features;
4. Reduction of soil erosion caused by stormwater runoff;
5. Reduction of air, water and noise pollution through the reduced mowing and fertilization requirements of limited turf areas;

6. Provision of ecological diversity and richness that furnishes habitat for species not otherwise found in urban environs; and

7. Minimization of fire danger through improved design and maintenance.

D. Horticultural Sustainability: Design, install and maintain landscapes suited to local soil, climatic, and on site conditions for improved plant growth and survivability.

E. Human Values: Make the City more attractive through the physical and psychological benefits of landscaping that softens the visual harshness of urban development, by stimulating pride in the City's natural heritage, and by protecting the public health, safety and general welfare.

F. Land Values And Investment: Safeguard and enhance the value of land and public and private investment through incorporation of landscaping into development; and retain and enhance the City's natural beauty, which is an important factor in attracting economic development.

G. Nuisance Species Control: Control certain exotic plant species that have a negative effect on public health or degrade native ecosystems.

H. Improved Design: Create an awareness of regional plant communities, soils, and practices that contribute to water and energy efficiency, and encourage innovative, long range and cost conscious approaches to landscape design.

I. Administration And Enforcement: Establish procedures for the administration of revised landscape regulations and provide knowledgeable staff review and assistance. Provide efficient and timely review of plans and enforcement of requirements and ensure fairness and due process. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 95-125; Ord. 98-68; Ord. 01-42; Ord. 08-44)

#### **7.4.303: DEFINITIONS<sup>1</sup>:**

**AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS:** A national membership organization formed to advance the professional practice of landscape architecture.

**AS BUILT PLANS:** Revised plans reflecting the actual conditions of a landscape or irrigation system installation.

**BACHELOR OR HIGHER DEGREE:** A four (4) year degree or master or doctorate degree from an accredited college or university in the United States.

**BERM:** An earthen mound designed to provide visual interest on a site, screening of undesirable views, noise reduction, etc.

**BORROWED NATIVE PLANT:** A species that is indigenous to a regional native plant community, however, it does not occur naturally in that same community within the Colorado Springs City limits.

**CANOPY (Also Known As OVERSTORY):** The upper vegetative cover of a tree or plant grouping.

**CERTIFIED IRRIGATION DESIGNER:** A person who has completed the certified irrigation designer program of the irrigation association.

**COMPATIBLE PLANT:** A species with genetic or ornamental properties and physiographic requirements that closely resemble those properties and requirements of a plant in a specific regional native plant community or of a plant that is historically adapted to that community.

**CRITICAL ROOT ZONE:** The ground area around a tree trunk determined by a radius of one foot (1') for each one inch (1") of trunk diameter.

**CULTIVATED VEGETATION:** Living plant cover that is fostered for horticultural purposes and is suited to the growing conditions of Colorado Springs.

**DECIDUOUS:** A plant with foliage that is shed annually.

**DOUBLE FRONTAGE LOT (Also Known As Through Lot):** A lot having frontage on two (2) parallel or approximately parallel streets.

**DRIP LINE:** A vertical line extending from the tips of the outermost branches of a tree to the ground.

**ECOSYSTEM:** A characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between species and their environment.

**EVAPOTRANSPIRATION (ET):** A measure of water depletion from the soil due to evaporation from the soil surface and transpiration through plant foliage.

**EVERGREEN:** A plant with foliage that persists and remains green year-round.

**GROUND COVER:** Plants, other than turfgrass, normally reaching an average maximum height of not more than twenty four inches (24") at maturity.

**HIGH WATER USE TURF:** Turfgrass that requires fifty percent (50%) to eighty percent (80%) of reference evapotranspiration to maintain optimum appearance; or turfgrass that has an exceptionally high water requirement to prevent dormancy, typically twenty five inches (25") of supplemental irrigation during each annual growing season in Colorado Springs.

**HISTORICALLY ADAPTED PLANT:** A self-propagating species that is not indigenous to the regional native plant community it occupies, but was likely introduced by early settlers and is now so prevalent as to appear indigenous.

**HYDROZONE:** A portion of a landscape area having plants with similar water needs that are either not irrigated or irrigated by a circuit or circuits with the same schedule.

**HYDROZONING:** The design practice of grouping plants by similar water requirements to maximize potential efficiency of irrigation.

**INTRODUCED PLANT:** A plant that is not indigenous to Colorado Springs, but is used in landscaping due to its adaptable qualities. It is generally a nursery trade cultivar or variety, or a native to the region, but does not naturally occur in the City limits.

**IRRIGATION ASSOCIATION:** A nonprofit, North American organization formed to improve the

products and practices used to manage water resources and to help shape the business environment of the irrigation industry.

**IRRIGATION PLAN:** A two-dimensional (2-D) plan drawn to scale that shows the layout of irrigation components, component specifications, and hydrozones. Layout of pipes may be depicted diagrammatically, but location of irrigation heads and irrigation schedules is specified.

**IRRIGATION SYSTEM:** A permanent, artificial watering system designed to transport and distribute water to landscape plants.

**LANDSCAPE:** Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as land and water forms, rock, stone, bark chips or shavings; and structural features, including, but not limited to, fountains, reflecting pools, outdoor artwork, screen walls, fences, or benches.

**LANDSCAPE BUFFER:** Land area with landscape plantings and other components used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

**LANDSCAPE CODE:** A part of this Zoning Code, which is part of this City Code of Colorado Springs.

**LANDSCAPE GRADING PLAN:** A plan drawn to scale that shows the designed landscape gradient and elevation using contour lines or numeric notation of elevations.

**LANDSCAPE PLAN:** A plan drawn to scale that shows the layout of all landscape components and their specifications for a development site.

**LANDSCAPE POLICY MANUAL:** A document containing policies, procedures, standards, maps, and plant lists necessary to implement the Landscape Code of the City of Colorado Springs.

**LANDSCAPE SETBACK:** A required landscape planting area on private property that is adjacent to a street right of way, and includes the parkway; or that is adjacent to a nonstreet boundary of a zone district.

**LICENSED ARCHITECT:** A person who is currently licensed by any state government of the United States to practice the profession of architecture.

**LICENSED LANDSCAPE ARCHITECT:** A person who is currently licensed by any state government of the United States to practice the profession of landscape architecture.

**LOCAL NATIVE PLANT COMMUNITY:** A plant community that is indigenous within the Colorado Springs City limits.

**LOW WATER USE PLANTS:** Plants that require less than thirty percent (30%) of reference evapotranspiration to maintain optimum appearance.

**MICROCLIMATE:** The climate of a specific place within a given area.

**MOTOR VEHICLE LOT:** An area where motor vehicles are parked or displayed, including parking lots, vehicular display lots, rental lots, depots, and stacking lanes, but not including parking garages.

**MULCH:** Nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture, and that provide a protective covering around plants to reduce weed growth and to maintain even temperatures around plant roots.

**NATIVE PLANT:** A species that is indigenous within the Colorado Springs City limits and naturally occurring in one or more plant communities.

**NONPOTABLE WATER:** Water that has not been treated to make it safe for drinking.

**ORNAMENTAL TREE:** A tree planted primarily for its decorative value, or for screening and that typically does not exceed a height of thirty feet (30') in Colorado Springs.

**PARKWAY (Also Known As Parking):** That portion of the public street right of way typically located between the curb and private property line for which the adjacent property owner has a legal responsibility to maintain for the public good.

**PLANT COMMUNITY:** A natural association of vegetation that is dominated by one or more prominent species, or a characteristic physical attribute.

**PRACTICAL TURF AREAS:** A landscape design and management concept promoting turf only in those areas of the landscape that are functional, and the efficient management of supplemental irrigation that is required in those areas.

**RAIN SENSOR OR RAIN SHUTOFF DEVICE:** A device connected to an irrigation controller that overrides scheduled irrigation when significant precipitation has been detected.

**RECLAIMED WATER:** Treated, recycled water.

**REFERENCE EVAPOTRANSPIRATION:** The evapotranspiration of a broad expanse of well-watered, four (4) to six inch (6") tall cool season grass.

**REGIONAL NATIVE PLANT COMMUNITY:** Any plant community with a geographic distribution indigenous to all or part of the front range of the southern Rocky Mountains.

**REGISTERED PROFESSIONAL ENGINEER:** A person who is currently registered by any state government of the United States as a professional engineer.

**RESTRICTIVE COVENANT:** A limitation of the use of land usually set forth in the deed or other recorded instrument.

**SCREEN:** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, densely planted vegetation, or berms.

**SELECTED PLANTS FOR COLORADO SPRINGS:** The plant list located in appendix B of the landscape policy manual.

**SEMIARID CLIMATE:** A climate characterized by ten inches (10") to twenty inches (20") of annual precipitation.

**SHADE TREE:** A deciduous (or rarely, an evergreen) tree planted primarily for its high crown of foliage or overhead canopy. A major shade tree at maturity reaches a height of at least fifty feet (50').

**SHRUB:** A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than twelve feet (12') in height at its maturity. It may be evergreen or deciduous.

**SIGNATURE LANDSCAPES:** Landscape development consistent with local climatic and soil conditions and that evokes the aesthetic and ecological qualities of regional native plant communities.

**SIGNATURE PLANT:** Vegetation designated in appendix B of the landscape policy manual as native, "Borrowed" native, historically adapted, or compatible in a specific regional native plant community of Colorado Springs.

**SIGNIFICANT VEGETATION:** A plant or plants recommended for retention by the City Forester because of size, indigenous character, species type(s), unique environmental benefits, or because it is difficult to provide comparable replacement vegetation.

**SITE PLAN:** A two-dimensional representation, drawn to scale, of the total area of a development project, including building footprints, roadways, and parking areas.

**SOIL AMENDMENT:** Organic and inorganic materials added to soil to improve texture, nutrients, moisture holding capacity, and infiltration rates.

**STREET RIGHT OF WAY:** The area of land designated for streets, sidewalks, utilities, and public use.

**STREET TREE:** A tree planted in the street right of way (parkway) between the curb or edge of road and the adjoining property line to provide shade, spatial definition, and human scale, and to enhance the street environment.

**STREETSCAPE:** The landscape treatment of a street edge, including vegetation, sidewalks, streetlights, fencing, signs, utilities, etc.

**SUSTAINABILITY, HORTICULTURAL:** A characteristic of landscapes adapted to local soil and climatic conditions that results in the healthy growth and longevity of installed plant materials.

**TREE:** A large, woody plant having one or several self-supporting stems or trunks and numerous branches. It may be classified as deciduous or evergreen.

**TURF/TURFGRASS:** Continuous plant coverage consisting of hybridized grasses that, when regularly mowed, form a dense growth of leaf blades and roots.

**UNDERSTORY:** Assemblages of natural low level woody, herbaceous, and ground cover plant species that exist in the area below the canopy of trees.

**VEGETATION:** Plants in general or the sum total of plant life in an area.

**WATER HARVESTING:** Design for capturing and using water runoff from natural or artificial, on site precipitation.

**XERISCAPE:** A water efficient landscape adapted to the local environment.

**XERISCAPE PRINCIPLES:** Methods of professional landscaping that include: planning and design, soil analysis, efficient irrigation, appropriate plant selection, practical turf areas, use of mulches, and proper maintenance. (Ord. 86-39; Ord. 91-30; Ord. 98-68; Ord. 01-42)

**7.4.304: LANDSCAPE POLICY MANUAL:**  

The Community Development Department is hereby authorized to adopt a landscape policy manual containing policies, procedures, standards, maps, plant lists and other provisions necessary to implement the provisions of article 5, part 11, "Administrative Relief", of this chapter, section [7.5.1206](#), "Nonconforming Landscaping And Parking", of this chapter, and this part, "Landscaping Standards", and [chapter 4](#) (street tree fee, fund, planting requirements) of this Code. (Ord. 86-39; Ord. 86-177; Ord. 91-30; Ord. 94-107; Ord. 98-68; Ord. 01-42; Ord. 09-80)

#### **7.4.305: APPLICATION OF LANDSCAPING REQUIREMENTS:**

A. Application: Except as otherwise provided by subsection B of this section, the landscaping requirements of this section shall apply to all land public, institutional and private located within the City of Colorado Springs. These requirements shall specifically apply to:

1. All new construction;
2. All construction projects that cumulatively increase the gross floor area of the lot by fifty percent (50%) or more subsequent to March 11, 1986;
3. Any relocation consisting of fifty percent (50%) or more of the existing gross floor area;
4. Any change of use that results in the conversion of single- or two-family residential use to multi-family or nonresidential use;
5. The conversion of vacant land to nonresidential use that does not involve the construction of a structure;
6. The total redevelopment (demolition and new construction) of a lot; and
7. All government and utility service property zoned PF (public facilities).

B. Exempt Property: None of the landscaping requirements of this section, except as specified in subsection C, "Special Requirements", of this section shall apply to:

1. An individual detached single-family or two-family residential structure on its own lot;
2. Any valid, unexpired development plan approved prior to the effective date hereof, for which there is neither a change of use nor a major amendment to the plan;
3. Any temporary event approved in accord with this Code;
4. A site on which cumulative increases to the gross floor area of an existing structure constitute less than fifty percent (50%) of the existing floor area as of March 11, 1986;
5. Bona fide agricultural activities;
6. Currently approved development plans that are changed by a minor amendment subsequent to the effective date hereof;
7. Master planned public parks, zoned PK, in conformance with article 3, part 4 of this Zoning Code;



8. Medians in arterial street rights of way approved by the Park and Recreation Advisory Board;
9. The Old Colorado City district, which is regulated by referenced redevelopment guidelines in the westside plan, adopted by the City Council on January 22, 1980. The boundaries of this special landscaping district are described by a map in an appendix titled "Old Colorado City District". These documents are on file in the Community Development Department; and
10. Utility easements.

C. Special Requirements: The following requirements shall apply to single-family and two-family residential projects on a subdivisionwide basis:

1. Restrictive Covenants Requiring Turfgrass Prohibited: The water demand of traditionally used turfgrass results in an extraordinary burden on the City's water resources. Therefore, any restrictive covenant that becomes effective on or after November 1, 1998, and that requires cultivated vegetation on property maintained by an individual property owner, shall not specify that any portion of said vegetation must be turfgrass. This provision shall not restrict the individual and voluntary use of turfgrass on a detached single-family or two-family residential lot.
2. Double Frontage Lot Streetscapes: Double frontage (through) lots are regulated by the Subdivision Code. The required setbacks and landscaping are prescribed in this part and the landscape policy manual. Where double frontage lots are approved as part of a development plan or plat, installation of the required streetscape, including irrigation system, plant material, fence and sidewalk shall be the responsibility of the developer. Maintenance shall be the responsibility of a homeowners' association or a special improvement maintenance district (SIMD), and shall be so noted in the recorded covenants and on the subdivision plat(s). Establishment of a landscape easement with individual lot owner responsibility shall be not acceptable.
3. Common Areas: Landscaped common areas, such as entrances and nonarterial medians in single-family and/or two-family residential projects shall be the responsibility of an SIMD or homeowners' association, and shall be so noted in the recorded covenants and on the subdivision plat(s).

D. FBZ Regulating Plans: Alternate landscaping standards may be included as a part of an FBZ regulating plan. (Ord. 98-68; Ord. 01-42; Ord. 09-50; Ord. 09-80)

#### **7.4.306: LANDSCAPE ADMINISTRATIVE RELIEF:**

The purpose of this section is to provide for flexibility in the application of landscaping regulations when a standard is inapplicable or inappropriate to a specific use or design proposal, or when a minor problem arises with the strict application of development standards. Some degree of administrative relief may be anticipated in those districts noted in the landscape policy manual. Should findings justify the granting of administrative relief, the findings and relief shall be consistent with article 5, part 11 of this chapter, and with the policies and procedures of the landscape policy manual. All administrative relief referenced in this article is to be addressed through the use of an alternative compliance request per section [7.4.307](#) of this part. (Ord. 98-68; Ord. 01-42; Ord. 03-81)

#### **7.4.307: ALTERNATIVE COMPLIANCE:**

The regulations, standards and policies contained in the Landscape Code and policy manual are to

facilitate development that is consistent with the City's landscape objectives. The requirements are intended to foster creative design, but not to invoke an inordinate hardship where compliance as outlined in the Landscape Code and policy manual is either impractical or impossible. The procedure and criteria for alternative compliance are established in the landscape policy manual. (Ord. 98-68; Ord. 01-42)

#### **7.4.308: REQUIRED PLAN SUBMITTALS AND REVIEW:**

A. Required Plans: When landscape, landscape grading, and irrigation plans are required as part of the development application, the plans shall contain the information listed below, and any additional information as determined by the Community Development Department, the Planning Commission or City Council to enable them to determine whether the plans should be approved.

B. Application Of Requirements: Documents shall clearly and completely describe the design and any techniques and features provided to implement the design and Landscape Code requirements.

Where a calculation of a requirement results in a fractional number (i.e., 14.2 required trees), the requirement shall be considered the next greatest whole number (i.e., 15 required trees).

Where two (2) different landscape requirements apply (i.e., a buffer and a landscaped setback), the greater requirement shall be met (i.e., the buffer).

C. Conflicts: If any provision of this section conflicts with any other ordinance or regulation, the more stringent requirement shall govern to the extent of the conflict.

D. Submittal And Review Process: Landscape plans reviewed as part of the development plan process shall meet review criteria contained in article 5, part 5 of this chapter.

E. Submittal Requirements: Submittal requirements listed below and described in detail in this part, include the following:

1. Preliminary landscape plan;
2. Final landscape plan;
3. Landscape grading plan;
4. Irrigation plan; and
5. Inspection affidavit.

F. Additional Requirements: Additional submittal requirements are listed below, where applicable:

1. Irrigation management plan;

2. Application for alternative compliance;
3. Significant vegetation retention plan (voluntary for landscape credit);
4. Acceptable financial assurance of installation for double frontage lot streetscape or common area, or for development plan approval for a change of use without construction of a structure; and
5. Financial assurance of maintenance.

G. Plan Approval As A Prerequisite For Development Plan, Building Permit, Certificate Of Occupancy Or Change Of Use:

1. A preliminary landscape plan, with applicable support material, shall be approved concurrent with development plan review.
2. A final landscape plan, to include an irrigation plan, with applicable support material, shall be submitted at the time of building permit application. Review and approval of these plans shall occur thirty (30) days subsequent to building permit issuance or prior to issuance of a certificate of occupancy, whichever occurs first.
3. In the case of the conversion of vacant land to nonresidential use that does not involve the construction of a structure, a final landscape plan, to include an irrigation plan, with applicable support material, shall be submitted and approved concurrent with development plan review.
4. Upon request by the applicant, an irrigation plan, with applicable support material, shall be submitted ninety (90) days subsequent to building permit issuance and approved prior to issuance of a certificate of occupancy.

H. Review Authorities: The development/site plan submittal and review process is administered by the Community Development Department. Landscape requirements may be subject to review by City Council or the Planning Commission in compliance with article 5, part 9 of this chapter. All tree plantings in the public right of way are subject to review and permit by the City Forester. Landscape plans may be subject to review by City Forestry, Parks and Recreation, Engineering, Police, Fire, Transportation, and Utilities.

I. Compliance With Policies And Standards: In addition to compliance with this Landscape Code, all required plans shall comply with the policies and standards of the landscape policy manual. (Ord. 98-68; Ord. 01-42; Ord. 03-16; Ord. 03-81; Ord. 07-46; Ord. 09-78; Ord. 09-80)

**7.4.309: INSTALLATION, VERIFICATION AND DEFERRAL:**  

A. Administration And Enforcement: The requirements of this section are administered and enforced by the Community Development Department in compliance with article 5, part 10, "Zoning Enforcement", of this chapter as deemed necessary and desirable to protect the public health, safety and welfare. As such, all steps regarding abatement or enforcement of remedies shall be consistent with the legal measures available to the Community Development Department Manager.

B. Installation: All landscaping, irrigation system and other site work shown on the approved landscape and irrigation plans shall be properly installed and stabilized against soil erosion and/or financially assured, prior to issuance of a certificate of occupancy, or prior to issuance of a building permit in the case of a double frontage lot streetscape requirement or common area, or prior to final development plan approval for the conversion of vacant land to nonresidential use that does not involve the construction of a structure.

C. Required Verification: The owner or developer shall provide an inspection affidavit executed by both the qualified landscape plan designer and the qualified irrigation plan designer, which certifies that all components have been properly installed in conformance with the approved plans. In lieu of the provision of a properly executed inspection affidavit, the Community Development Department shall inspect and verify the initial landscape and irrigation system installation subject to compliance with this part.

D. Deferral Of Installation: In cases where all or some portion of the required landscaping, irrigation system or other site work cannot be installed due to seasonal conditions that would jeopardize the health of plant materials or prohibit the installation of the irrigation system or plant materials; or due to the unavailability of plant material, or to construction activities, the owner or developer may make the following arrangements in order to secure a certificate of occupancy:

1. An acceptable financial assurance shall be posted with the Community Development Department Manager. Acceptable financial assurances shall include cash, certificates of deposit, irrevocable letters of credit, performance bonds and escrow accounts. The assurance shall be accompanied by a description of the uncompleted landscaping, irrigation system and/or site work and an estimate of the cost required to complete the same. The assurance shall be an amount equal to the cost estimate.
2. The owner or developer shall agree in writing that he/she, or any successors or assigns, shall complete the required landscaping, irrigation system, and/or site work within one year or less from the date of issuance of the certificate of occupancy.
3. The financial assurance shall be released once all of the required landscaping, irrigation system, and/or site work has been installed, and verified in compliance with this part. (Ord. 98-68; Ord. 01-42; Ord. 09-80)

#### **7.4.310: MAINTENANCE ASSURANCE:**

A. Compliance Inspection: The Community Development Department shall perform a landscape compliance inspection two (2) years after the initial landscape installation is verified in conformance with this part.

B. Alternative To Inspection Affidavit: When a properly executed inspection affidavit is not provided as required by this part, the owner or developer shall post an acceptable financial assurance with the Community Development Department Manager for a two (2) year period that guarantees the maintenance in good condition of all required landscaping components, except irrigation system components, and the replacement or repair of said components. The Community

Development Department will then inspect and verify the initial landscape and irrigation system installation.

- C. **Type And Amount Of Assurance:** Acceptable financial assurances shall include cash, certificates of deposit, irrevocable letters of credit, performance bonds and escrow accounts. The amount of the assurance shall be established in the landscape policy manual. Said assurance shall be reduced in conformance with the procedures established in the landscape policy manual.
- D. **Release Of Assurance:** The financial assurance shall be released once the Community Development Department verifies that all of the required landscaping has been maintained in compliance with the requirements and standards of this Landscape Code and the landscape policy manual for a period of two (2) years from the date of verification of the initial landscape installation. (Ord. 86-39; Ord. 91-30; Ord. 98-68; Ord. 01-42; Ord. 09-80)

#### **7.4.311: SIGNATURE LANDSCAPES:**

- A. **Compliance With Signature Landscapes Framework:** A detailed explanation of the signature landscapes framework is provided in the landscape policy manual. The landscape plan shall comply with the framework as set forth in the policy manual.
- B. **Expression Of Plant Communities:** The landscape plan shall present a site adapted design with regard to soil type, microclimate, vegetative cover, efficient water use, grouping of signature plants into plant communities, and use of all other landscape components. The predominant landscape theme shall be expressed through the selection of plant species and their designed distribution on the site.
- C. **Retention Of Significant Vegetation And Topography:** Where reasonable, the design shall retain significant vegetation and shall limit alteration of unique or characteristic topography to the extent practical within the grading requirements of the development project.
- D. **Ecological Basis For Landscape Plans:** Where reasonable, the landscape plan shall reflect the ecological context of the site by the use of diverse plant species indicative of local plant communities indigenous or potentially adaptable to the conditions of the site. A landscape plan that consists of minimum percentages of signature plants shall be required in conformance with the signature landscapes framework of the landscape policy manual. (Ord. 98-68; Ord. 01-42)

#### **7.4.312: LANDSCAPE PLAN:**

- A. **Qualifications To Prepare Plan:** The required landscape plan shall be prepared by a person who meets the qualifications established in the professional qualifications standards of the landscape policy manual, and who is knowledgeable of Colorado plant material, plant communities, local soils, and landscape and irrigation practices.
- B. **General Requirements:** The landscape plan, through graphic symbols and notes, shall comply with the planting and site criteria specified by this Landscape Code, and with the policies,

procedures, standards, selected plants list (appendix B) and all other requirements of the landscape policy manual and City application forms.

C. Site Categories: The following site categories are required to be landscaped and labeled:

1. Landscape setbacks and double frontage lot streetscapes;
2. Motor vehicle lots;
3. Internal landscaping;
4. Landscape buffers and screens; and
5. Street trees in parkways.

D. Plant Selection: Plants shall be selected from appendix B of the landscape policy manual. Signature plants, suited to the conditions of the site, shall be grouped to express ecological and plant community compatibility in conformance with the signature landscapes framework of the landscape policy manual. Nonsignature plants selected shall also be suited to the soil and microclimates of the site.

E. Hydrozones: Plants with similar water needs within each site microclimate (i.e., shade, west facing, toe of slope, etc.) shall be zoned or grouped together for efficiency of water application, to prevent water waste and to provide optimum application of water to the plants.

F. Numerical Requirements: The locations and quantities of plants shall comply with the requirements established for the various site categories in this section and with the policies and standards of the landscape policy manual.

G. Requirements Are Cumulative: The site categories and minimum number of trees are cumulative. Areas or trees provided to meet each site category requirement may not consist of areas or trees that are proposed to meet the minimum requirements of other site categories, except as specifically provided in the landscape policy manual.

H. Ground Plane Treatment: Ground cover and turf requirements that pertain to the site categories are found in this part (ground plane and turf section) and the landscape policy manual.

I. Plant Substitutions: Minor revisions to an approved landscape plan may be requested due to lack of plant availability or seasonal planting constraints. Substitutions may be permitted in conformance with criteria in the landscape policy manual. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 98-68; Ord. 01-42; Ord. 03-81; Ord. 07-46)

**7.4.313: LANDSCAPE GRADING PLAN:**  

A. Qualifications To Prepare Plan: The required landscape grading plan shall be prepared by a person who meets the qualifications established in the professional qualifications standards of the landscape policy manual, and who is knowledgeable of local soil conditions and hydrology, the landscape implications of disturbance of soil horizons, adjustments to existing grades and grade change tolerances of plant species to be retained, the planting and irrigation/water runoff impact associated with varying degrees of slope and berms, the principles of water harvesting and on site ground water recharge through pervious surfaces, the implications of compaction and fill materials on soil as a growing medium for plants, erosion control, conservation of topsoil and horizon soils, and alterations in permeability as a result of grading operations.

B. General Requirements: The landscape grading plan shall provide all information necessary to clearly indicate existing and proposed site conditions including, but not limited to, contour intervals, existing and proposed contours, top and toe of manufactured slopes, retaining walls with top of wall elevations and finish grade on each side, and general intent of site drainage.

C. Coordination With Landscape And Irrigation Plans: The landscape grading plan shall be consistent with the landscape and irrigation plans and shall ensure:

1. The provision of adequate and proper drainage for survival of plant material;
2. The stockpiling and redistribution of beneficial topsoil;
3. The mitigation of slopes that are difficult to vegetate or irrigate, or that would result in water runoff onto paved surfaces;
4. The provision of water harvesting where beneficial and feasible;
5. The protection of landscaping from flooding or contaminated runoff;
6. Aesthetically and functionally placed berms; and
7. General contouring of the ground plane to create forms that are aesthetically pleasing and that contribute to the intent of the landscape design.

D. Consistency With Grading And Erosion Control Plan Contents And Review: The landscape grading plan shall be consistent with the grading and erosion control plan reviewed by City Engineering.

E. Slope Standards: The landscape grading plan shall conform to the slope standards established in the landscape policy manual. (Ord. 86-39; Ord. 86-177; Ord. 86-229; Ord. 87-87; Ord. 91-30; Ord. 98-68; Ord. 01-42)

#### **7.4.314: IRRIGATION PLAN:**

A. Qualifications To Prepare Plan: Effective two (2) years from the date of final passage of this chapter, any required irrigation plan shall be prepared by a person who meets the qualifications established in the professional qualifications standards of the landscape policy manual, and who

is knowledgeable of conservation and water efficient design principles, ET rates, irrigation system components and maintenance, hydrology, local soil classifications, textures, infiltration rates, and their implications for irrigation design; degree and orientation of slopes, and locally used plant materials and their respective water needs.

**B. Submittal Requirements:**

1. An irrigation plan shall be submitted at the time of building permit application and approved within thirty (30) days subsequent to building permit issuance or prior to issuance of a certificate of occupancy, whichever comes first.
2. Upon request by the applicant, an irrigation plan shall be submitted within ninety (90) days subsequent to building permit issuance and approved prior to the installation of any irrigation components and prior to issuance of a certificate of occupancy.
3. In the case of the conversion of vacant land to nonresidential use that does not involve the construction of a structure, an irrigation plan shall be submitted and approved concurrent with development plan review and approval.
4. The irrigation plan shall graphically and through notes depict a water efficient design consistent with the landscape and grading plans.
5. The irrigation plan shall show and note hydrozones. The hydrozones shall take into account like water demand plants, slopes, microclimates, environmental factors, and water pressure.
6. Irrigation systems shall conform to the irrigation standards and all other provisions of the Landscape Code and landscape policy manual.

**C. As Built Plans Required:** As built plans are required when the installation of the irrigation system does not comply with the approved irrigation plan. As built drawings shall be prepared by a person who meets the qualifications established in the professional qualification standards of the landscape policy manual.

**D. System Test Required:** A functional test of the irrigation system shall be performed by the installer and verified by the qualified designer or by the Community Development Department in conformance with this part.

**E. Irrigation Management Information:** The Community Development Department may require the formulation of an irrigation management plan in conformance with the standards of the landscape policy manual for large, complex projects. Implementation of the management plan shall be the responsibility of the property owner. (Ord. 98-68; Ord. 01-42; Ord. 03-81; Ord. 07-46; Ord. 09-80)

**7.4.315: CONSERVATION OF SOIL AND DRAINAGE:**  

**A. Purpose:** Urban growth and development have altered topography, soil, and drainage patterns, changing the microclimates of the City. The requirements of this section are intended to allow



conservation of these natural systems and to mitigate the negative impacts of the development process.

B. Soil Conservation And Analysis: Topsoil shall be stockpiled during construction for use in landscape areas prior to planting. In order to develop a planting plan suited to the site, a soil analysis shall be conducted by an established soil analysis laboratory. The soil analysis report shall contain at a minimum the soil texture, percentage of organic matter, pH, total soluble salts, and recommended amendments where appropriate. A copy of the report shall be submitted as either:

1. Part Of Plan: Part of the final landscape plan; or
2. Completion Of Work: At the completion of landscape work. A signed affidavit attesting to the soil amendments incorporated to correct deficiencies shall be included with the soil analysis prior to the issuance of a certificate of occupancy. The applicant shall include at the time of final landscape plan submittal of a written statement of justification for deferral of the soil analysis. The staff landscape architect may, in certain situations, require that a soil analysis be performed in conjunction with the final landscape plan review if it is determined that the explanation for deferral is not valid or that soil conditions are not representative of the native soils. This would typically occur in urban conditions where soil disturbance was evident. If a soil analysis is not included with the landscape plan submittal, the plan shall be prepared using the "General Vegetation And Soil Associations" map included in the Landscape Code and policy manual. The plant materials specified shall be compatible with the soils classifications identified on this map with the soil association identified on the landscape plan; or
3. Waiver Request: A written request for waiver of the soil analysis may be appropriate under certain conditions. This may be approved where landscape improvements are minimal and the applicant demonstrates sufficient measures will be undertaken to amend the existing soil to provide an acceptable growing medium.

C. Soil Amendments And Preparation: Soil amendments to improve water drainage, moisture penetration or retention, and nutrient availability shall be provided as determined by the soil analysis. Tilling of the soil to incorporate amendments and counter any compaction or soil consolidation shall be required for all landscape planting areas. Soil preparation shall be consistent with the cultural needs of the plant species proposed for each site category.

D. Drainage: All drainage shall comply with this Code and the landscape policy manual. Where existing native plant communities are to be retained, drainage shall not be altered so as to be detrimental to the viability of the plants.

E. Erosion Control And Slope Revegetation: All disturbed site areas shall be revegetated and slopes stabilized in conformance with this Code and the landscape policy manual. (Ord. 98-68; Ord. 99-91; Ord. 01-42)

#### **7.4.316: CONSERVATION OF ON SITE PLANTS:**

- A. Purpose: Urban growth and development have altered the vegetative character of the City changing its microclimates, air quality and appearance. The requirements of this section are intended to provide credit for the conservation of these natural systems and to mitigate the negative impacts of the development process. Also, conservation of existing vegetation is intended to conserve water, in that irrigation requirements may be substantially reduced by preserving existing plant groupings.
- B. Preservation Areas: The preservation of natural plant communities is provided for in article 3, part 5 of this chapter (hillside area overlay section) and part 1 of this article (preservation areas subsection). Allowable trimming and maintenance must comply with the wildfire fuels management ordinance, [chapter 8](#) of this Code. Part 2 of this article provides flexibility in the application of parking requirements in order to save valuable existing trees.
- C. "Oasis" Plant Communities: The "oasis" concept shall allow existing indigenous plant communities to be retained in their entirety, with canopy trees, understory plants and ground covers left intact and undisturbed as credit toward required landscaping on development/site plans. In this manner, protection of characteristic plant communities serves to retain a "sense of place" and to fulfill landscaping requirements.
- D. Plant Conservation And Credit Toward Tree Planting Requirements:
1. The general location and species of existing significant vegetation shall be shown on the preliminary landscape plan;
  2. The accurate location, existing ground elevation, species, and size of vegetation to be retained shall be shown on the final landscape plan; and
  3. The City Forester shall determine if the proposed vegetation to be retained is viable, if sufficient protection measures can be assured, if the species and size of the plant warrant the protection measures that will be required, and the credit equivalent of the plant(s).
- E. Tree Retention Standards: Specifications, plans and construction practices regarding the retention of significant vegetation on development sites shall comply with the landscape policy manual standards and City Forestry Rules and Regulations, [chapter 4](#) of this Code. (Ord. 98-68; Ord. 01-42)

#### **7.4.317: GROUND PLANE AND TURF:**

- A. Intent: Ground plane treatment shall be required in order to retain soil porosity, contribute to organic matter, stabilize slopes, reduce glare and pollution, reduce erosion and evaporation from soils and contribute aesthetically to the landscape.
- B. Coverage Requirements: All site category areas shall consist of one hundred percent (100%) ground plane coverage in living vegetation, organic mulch, or, to a limited extent, ornamental paving or rock mulch as follows:

1. At least seventy five percent (75%) of each site category area shall initially consist of plants, or plants and organic mulch.
2. At least seventy five percent (75%) of each site category area shall be covered by vegetation within three (3) years of planting.
3. Vegetative cover may consist of ground covers, perennials, shrubs, ornamental grasses, bulbs and grass mixes, or turfgrasses.
4. The foliage crown of trees shall not be counted in the seventy five percent (75%) calculation of vegetative cover.
5. Ornamental paving (excluding sidewalks) or rock mulch shall not exceed twenty five percent (25%) of any site category area.

#### C. Turfgrass:

1. Use Of Turfgrass: Turfgrass shall be specified according to the same criteria as other plants. It shall be used as a planned amenity or element in the landscape and not solely as infill material. The type, location and shape of any turf area shall be determined by its practical function.
2. Irrigation And Management Of Turfgrass: Turfgrass shall be hydrozoned separately because of its unique water demand. Landscaped areas shall be configured to minimize irrigation system components and water waste through overspray and runoff.

D. Standards And Plant List: Selection of ground plane vegetation shall comply with appendix B and the standards of the landscape policy manual. Alternative or new species or varieties may be approved, provided they comply with the intent of the Landscape Code. (Ord. 98-68; Ord. 01-42)

### **7.4.318: FIRE DEPARTMENT AND UTILITIES CONSTRAINTS:**

- A. Purpose: Landscaping shall not interfere with the general function, safety or accessibility of any gas, electric, water, sewer, telephone, or drainage facilities, or other drainage or utility easements.
- B. Fire Department Constraints: Landscaping shall be limited to an eight inch (8") mature height within three feet (3') of a fire hydrant. Landscaping shall not restrict the use of or obscure the view of any fire hydrant, Fire Department connection, outside horn/strobe, required signage, or other safety features. Access roadways utilized by the Fire Department shall remain clear and unobstructed to a minimum height of thirteen feet six inches (13'6") with widths as individually prescribed for the development.
- C. Wildfire Management Constraints: In fire prone areas landscape fuel loading, slope and accessibility factors shall be evaluated with regard to fire hazard. The landscape design shall adhere to principles of fire mitigation such as higher water transition zones adjacent to structures (where expansive soil or hazardous geologic conditions do not exist), prohibition of large trees

adjacent to structures, thinning of fuel species on slopes and adjacent to structures, site layout that permits ease of egress, and other standards determined by the State Forestry Department.

- D. Colorado Springs Utilities Standards: All landscaping adjacent to, above, or beneath utilities shall comply with standards of the respective governing utility and the landscape policy manual.
- E. Electric Utility Constraints: All improvements, including landscaping, must comply with all applicable requirements of the National Electrical Code and National Electrical Safety Code. (Ord. 98-68; Ord. 01-42)

#### **7.4.319: MAINTENANCE OF REQUIRED LANDSCAPING:**

- A. Responsibilities: The landowner and/or owners' association shall be responsible for maintenance and keep in good condition all those locations indicated on the approved landscape plan of all vegetation, irrigation system, screening devices, and other landscape components so as to present a healthy, safe and orderly site.
- B. Maintenance Practices: Maintenance shall consist of all regular and normal maintenance practices of landscaping including weeding, irrigation, fertilizing, pruning and mowing. Plant materials that exhibit significant levels of insects, pests, diseases and/or damage shall be appropriately treated, and all dead plant materials shall be removed and replaced with living plant materials where required on the approved landscape plan.
- C. Right Of Way Maintenance: Private landscaping installed within the City right of way, as part of an approved landscape plan, shall be maintained by the adjacent landowner, homeowners' association or special improvement maintenance district as appropriate.
- D. Erosion Control And Reclamation Areas: Vegetative coverage in seeded site categories shall comply with the landscape policy manual. All erosion control and reclamation areas indicated on the landscape plan shall be maintained by the property owner, who shall replace any dead vegetation as soon as practical.
- E. Brush Management And Weed Control: Vegetation shall be maintained so as to inhibit the spread of noxious weeds, and to mitigate hazards, such as the spread of wildfires, slope failures, soil erosion, and increased flooding.
- F. Public Safety And Visibility:
  - 1. Visibility for police surveillance and crime prevention shall not be significantly hampered by landscaping;
  - 2. Corner visibility for traffic movement and protection of pedestrians shall comply with part 1 of this article (traffic standards subsection); and

3. Landscaping shall not prohibit access to utilities or hinder public safety, such as access to fire lanes and hydrants.

G. Public Rights Of Way Adjacent To Double Frontage Lot Streetscapes: Maintenance shall be the responsibility of a homeowners' association or a special improvement maintenance district (SIMD) as specified, with the exception of street trees maintained by the City Forester. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 98-68; Ord. 01-42; Ord. 03-122)

#### **7.4.320: LANDSCAPE SETBACKS, DOUBLE FRONTAGE LOT STREETSAPES, AND STREET TREES:**

A. Intent And Purpose: It is the intent of the City to establish landscape planting areas parallel to and including adjacent street rights of way (parkways), and along the nonstreet boundaries of zone districts. The areas shall contain plantings of trees and other live vegetation to provide a pleasing continuity of vegetation along the streetscape and zone boundary.

B. Required Minimum Widths Of Landscaped Setbacks:

1. Applicability: Landscape setbacks according to this section are required in all zone districts except the MU zone districts. Street trees are required along all streets in the MU zone districts.
2. Required Widths Of Landscape Setbacks Adjacent To Streets: The required width of the landscape setback is determined by the classification of the adjacent street rights of way as designated on the Colorado Springs major thoroughfare plan. These minimum setback widths, exclusive of the adjacent street right of way, are as follows:
  - a. Adjacent to a major arterial, expressway or freeway on the City's major thoroughfare plan the landscape setback shall be at least twenty five feet (25') wide;
  - b. Adjacent to a minor arterial on the City's major thoroughfare plan, the landscape setback shall be at least twenty feet (20') wide;
  - c. Adjacent to any nonarterial street the landscape setback shall be at least ten feet (10') wide; and
  - d. Adjacent to a nonstreet boundary of a zone district, no minimum width is required; however, space must be provided for nonstreet boundary trees or, where applicable, landscape buffer requirements that conform to this part.
3. Landscape Setbacks For Building Frontages: In all MU zone districts, landscape setbacks for building frontages shall correspond to the build-to lines per section [7.3.707](#) of this chapter.

C. Required Minimum Widths Of Double Frontage Lot Streetscapes (Applicable To One- Or Two-Family Residential Lots Only): The required width of the streetscape is determined by the classification of the adjacent street rights of way as designated on the Colorado Springs major thoroughfare plan. These minimum streetscape widths, exclusive of the adjacent street right of way, are as follows:

1. Adjacent to an expressway on the City's major thoroughfare plan the double frontage lot streetscape shall be at least twenty five feet (25') wide;
2. Adjacent to a major arterial on the City's major thoroughfare plan the double frontage lot streetscape shall be at least fifteen feet (15') wide;
3. Adjacent to a minor arterial on the City's major thoroughfare plan the double frontage lot streetscape shall be at least ten feet (10') wide; and
4. Adjacent to any nonarterial street the double frontage lot streetscape shall be at least six feet (6') wide.

D. Required Trees In Landscape Setbacks And Double Frontage Lot Streetscapes:

1. Adjacent To A Major Arterial, Expressway, Or Freeway: Each landscape setback or double frontage lot streetscape adjacent to a major arterial, expressway, or freeway on the City's major thoroughfare plan shall contain at least one tree for every twenty (20) linear feet of setback, streetscape or fraction thereof, as measured from the corners of the property.
2. Adjacent To A Minor Arterial: Each landscape setback or double frontage lot streetscape adjacent to a minor arterial on the City's major thoroughfare plan shall contain at least one tree for every twenty five (25) linear feet of setback, streetscape or fraction thereof, as measured from the corners of the property.
3. Adjacent To Any Nonarterial Street: Each landscape setback or double frontage lot streetscape adjacent to any nonarterial street shall contain at least one tree for every thirty (30) linear feet of setback, streetscape or fraction thereof, as measured from the corners of the property.
4. Adjacent To A Nonstreet, Zone Boundary: Each landscape setback adjacent to a nonstreet, zone boundary shall contain at least one tree for every thirty (30) linear feet of nonstreet, zone boundary length. In lieu of a landscape setback, required trees shall be located in planters or planting areas that are a minimum of one hundred fifty (150) square feet in area for each tree. Trees shall be protected from vehicular damage.
5. Trees May Be Substituted: Landscape setback and double frontage lot streetscape trees may be substituted with shrubs and ornamental grasses up to the percentage allowed in the landscape policy manual.
6. Required Street Trees In The MU Zone Districts: Street trees shall be planted along all streets in an MU zone district in accord with the street right of way design standards stated in section [7.7.704](#) of this chapter, and in the following amounts: Adjacent to any street, except alleys, at least one tree for every thirty (30) linear feet of streetscape or fraction thereof, as measured from the corners of the property. The required quantity of trees within the landscape setback may be met with a combination of street trees and required landscape setback trees along the following street types:

4-lane parkway:	Minor arterial
6-lane parkway:	Principal arterial

One-way couplet:		Principal arterial
Expressway		

E. Required Tree Spacing And Location:

1. Tree spacing shall accommodate the potential height and spread of the respective species as indicated in appendix B of the landscape policy manual.
2. The required landscaped setback, double frontage lot setback, and boundary trees may be clustered along a particular frontage or boundary.
3. The required landscaped setback trees may be located in a landscaped setback for which the depth provided is greater than the minimum required depth; however, the required trees shall be located within fifty feet (50') of the property line adjacent to the street.
4. The required nonstreet, zone boundary trees shall be located within fifty feet (50') of the nonstreet, zone boundary of the district.
5. Street trees required in the MU zone districts shall be planted along all streets and enhanced drive aisles. Otherwise, the required landscaped setback or double frontage lot streetscape trees may be located in part or in total in the adjacent public rights of way, provided:
  - a. The City Forester's standards for street trees are met in the case of a City street;
  - b. The Colorado Department of Transportation (CDOT) District Engineer and City Forester approve the trees in the case of a State highway; and
  - c. No conflicts exist with utility easements, drainage facilities or easements.
6. The required landscaped setback trees shall be located in the adjacent public right of way area if these trees cannot be placed in the landscaped setback area due to the existing development of the site. However, such trees are required only to the extent that:
  - a. The City Forester's standards for street trees are met in the case of a City street;
  - b. The Colorado Department of Transportation (CDOT) District Engineer and City Forester approve the trees in the case of a State highway; and
  - c. No conflicts exist with utility easements, drainage facilities or easements.

F. Walls And Fences In The Landscape Setback: Walls and fences that are in compliance with the standards of the landscape policy manual are permitted in the landscape setback.

G. Walls And Fences In The Double Frontage Lot Streetscape: A six foot (6') opaque wall or fence that is in compliance with the standards of the landscape policy manual shall be required.

H. Parking Prohibitions: The landscaped setback requirements in this section are superseded, where applicable, by the front yard parking prohibitions in part 2 of this article (general provisions, restrictions and prohibitions section). The front setback requirement and parking prohibition may cause a greater landscaped setback than required by this section. (Ord. 94-107; Ord. 98-68; Ord. 01-42; Ord. 03-157; Ord. 07-46)

#### **7.4.321: MOTOR VEHICLE LOTS:**

A. Intent And Purposes: The intent of landscape requirements for motor vehicle lots is to reduce potentially negative visual, aesthetic and environmental effects. The purposes of the requirements are to:

1. Conduct any necessary grading in a manner that closely follows the existing natural contours of the land, or modify the land in ways that create spaces that can be reasonably landscaped and maintained;
2. Filter and reduce the glare of reflected sunlight and headlights;
3. Mitigate the impact of fumes, dust, wind, noise and gaseous pollutants;
4. Reduce the rate of stormwater runoff and increase ground water recharge by the use of pervious areas;
5. Enhance the motor vehicle lot by providing shade, visually screening parked cars, and dividing large expanses of pavement;
6. Reinforce separation of pedestrians and vehicles to facilitate traffic flow and safety; and
7. Establish a harmonious landscape theme among architecturally diverse buildings and with the adjacent street.

B. Landscaping Requirements: Landscaping of open, off street motor vehicle lots is required. Landscaping within or adjacent to motor vehicle lots shall consist of required trees, screening vegetation or devices, and ground plane cover, and shall be subject to the following conditions and requirements:

1. Landscaping outside of motor vehicle lots may not be used to meet the internal landscaping requirement; and
2. The required minimum standards for planters, plant materials, and spacing shall comply with standards in the landscape policy manual.

C. Tree Requirements:

1. In any motor vehicle lot with fifteen (15) or more vehicular spaces that is not inside a garage, at least one shade tree shall be provided for every fifteen (15) vehicular spaces or fraction thereof;



2. Shade tree plantings shall be within or adjacent to the motor vehicle lot, clustered, or planted singly in planters, tree islands at the end of parking bays, in medians, between rows of cars, or as part of a continuous landscape strip. Planters shall conform to the landscape policy manual standards; and
3. All motor vehicle lots that share unified ingress or egress shall be considered as a single motor vehicle lot for the purpose of computing the required number of trees, notwithstanding ownership.

D. Tree Preservation As Alternative Compliance: In lieu of the required one shade tree for every fifteen (15) vehicular spaces or fraction thereof, tree preservation as credit may be approved in accord with this part and part 2 of this article.

E. Required Screening:

1. Open, vehicular spaces shall be screened from view from adjacent streets and properties;
2. The screen shall be provided for at least two-thirds ( $\frac{2}{3}$ ) of each frontage of any applicable motor vehicle lot. The width of intersecting driveways shall not be included in the calculation of length;
3. Screening shall consist of plantings or a combination of plantings and berms that have an eventual height of at least three feet (3'), and meet the requirements and the standards of the landscape policy manual; and
4. Structures such as decorative walls or fences may be permitted, provided the reviewing planner finds that:
  - a. The total use of plantings and/or berms is not physically feasible, and
  - b. The structures attractively complement the use of plantings and/or berms, or
  - c. The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees.
5. Parking garages shall be screened from streets and adjacent properties by vegetation in compliance with section [7.4.323](#), "Landscape Buffers And Screens", of this part.

F. Safe Sight Distances And Security: Plantings shall comply with part 1 of this article for corner visibility at all points of access to and from a street, and shall not significantly inhibit the view into motor vehicle lots for security purposes. (Ord. 98-68; Ord. 01-42; Ord. 08-44)

**7.4.322: INTERNAL LANDSCAPING:**  

A. Purpose: The purpose of internal landscaping requirements is to augment landscape setback, buffer and motor vehicle lot landscaping requirements in the following ways:

1. Internal landscaping shall visually soften the mass of buildings and visually separate building areas from motor vehicle lots.

2. Internal landscaping shall be adapted to the site, reflect the varying microclimates and respective building facade orientations, and visually tie the buildings and motor vehicle lots to the site and to the larger regional context.

B. Internal Area And Tree Requirements: Internal landscaping requirements and tree quantities shall apply to development projects in all zone districts as follows:

1. Nonresidential projects in any zone district and any project in an MU zone district:

a. Minimum Internal Landscaping Area: Five percent (5%) of the site's net area (site's area excluding adjacent public streets);

b. Minimum Number Of Trees: At least one tree for every five hundred (500) square feet of the required minimum internal landscaping area; and

c. Substitution Of Trees: Up to one hundred percent (100%) of the required trees may be substituted by shrubs.

2. Multi-family projects in any non-MU zone district:

a. Minimum Internal Landscaping Area: Fifteen percent (15%) of the site's net area (site's area excluding adjacent public streets);

b. Minimum Number Of Trees: At least one tree for every five hundred (500) square feet of the required minimum internal landscaping area; and

c. Substitution Of Trees: Up to fifty percent (50%) of the required trees may be substituted by shrubs.

C. Acceptable Locations For Internal Landscaping: The location of areas credited toward the minimum internal landscaping area requirement shall be consistent with the provisions of the landscape policy manual.

D. Tree Setbacks From Adjacent Buildings And Pavement: Plant spacing shall allow for the growth characteristics of trees without adversely affecting the maintenance or use of structures, walks, or drives. Setback distances from buildings shall allow for mature growth of trees in accord with appendix B of the landscape policy manual. (Ord. 94-107; Ord. 98-68; Ord. 01-42; Ord. 03-157)

#### **7.4.323: LANDSCAPE BUFFERS AND SCREENS:**

A. Purpose: Except as provided below in MU zone districts, landscape buffers and screens shall be provided between incompatible land uses that are either adjacent to or directly across from each other. Screening shall provide visual barriers between different land uses, enhance the streetscape, provide privacy, and protect uses from wind, dust, noise, traffic, glare, visual disorder, and harmful or noxious effects.

B. Existing Structures: No buffer requirement shall be construed as mandating the demolition, alteration or removal of any existing structures. However, demolition or removal of any structure occupying a buffer shall cause the full buffer requirement to be applied to the space so vacated.

C. Required Buffers And Screens: Landscape buffers or screens are required in the following locations:

1. A buffer is required between a nonresidential use and a residential use or vacant residentially zoned property where such uses are separated by a nonarterial street or a public alley;
2. A buffer is required along the common property line between an adjacent nonresidential use and a residential use or vacant residentially zoned property;
3. A buffer is required along the common property line between a multi-family residential use and a one-family or two-family residential use or vacant one-family or two-family zoned property;
4. A buffer is required between a nonresidential or multi-family use and a property zoned PK (public parks);
5. A screen is required around any refuse collection areas, including trash bins; and
6. A screen from view from adjacent properties and streets is required for any loading or utility service area, vehicle repair bay, or vehicle fueling area.

D. Locations: Landscape buffers and screens shall be located entirely on site.

E. Required Widths:

1. A buffer shall be at least fifteen feet (15') wide where required; and
2. A screen consisting of vegetation shall be at least six feet (6') wide where required, except for motor vehicle lot screening that conforms to this section.

F. Required Trees And Spacing:

1. At least one tree shall be planted for every twenty (20) linear feet of buffer length or fraction thereof;
2. At least fifty percent (50%) of the plantings shall be evergreen; and
3. Tree spacing shall be based on the potential heights and spreads of the individual species as indicated in appendix B of the landscape policy manual.

G. Required Fences And Architectural Screens: An opaque structure shall be required along the inside edge (private property side) of any required buffer.

#### H. Screen Height:

1. A required opaque structure (fence or wall) shall be at least six feet (6') in height or as otherwise specified in the landscape policy manual; and
2. A required vegetation screen shall be at least six feet (6') in height, except for motor vehicle lot screening required in this part.

#### I. Landscape Buffers And Screens In MU Zone Districts:

1. Development In MU Zone Districts: This section's landscape buffer and screening standards shall apply only if an applicant has first incorporated site and building transitions, green/open space transitions, and transition uses as transition tools, according to section [7.3.721](#) of this chapter and either:
  - a. The Manager finds that use of the transition tools described in section [7.3.721](#) of this chapter is not possible; and/or
  - b. The Manager finds that landscape buffers and screens are necessary to mitigate potentially adverse impacts between adjoining land uses. (Ord. 94-107; Ord. 98-68; Ord. 01-42; Ord. 03-157; Ord. 07-46; Ord. 09-80)

#### **7.4.324: STREET TREES IN PARKWAYS:**

- A. Purpose: Street trees in parkways are intended to provide a canopy along the street, contribute to spatial definition and human scale, and to provide shade and mitigate deleterious effects of the urban environment.
- B. Authority: The City Forester shall administer the standards for street trees and review the species selection, sizes, locations, and spacing.
- C. Tree Selections: Species selection shall comply with the City Forester's publication "Trees For Colorado Springs" or, with approval, those trees designated as street trees in appendix B of the landscape policy manual.
- D. Street Parkway Width Standards: The provision of trees within parkways shall comply with the standards of the landscape policy manual and the "Forestry Rules And Regulations" of the City Forester. (Ord. 94-107; Ord. 98-68; Ord. 01-42)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#); See also [article 2 of this chapter](#) for other definitions.

## PART 4 SIGN REGULATIONS<sup>1</sup>

### [7.4.401: PURPOSE AND INTENT:](#)

### [7.4.402: APPLICABILITY:](#)

### [7.4.403: EXEMPTIONS:](#)

### [7.4.404: GENERAL PROVISIONS:](#)

### [7.4.405: DEFINITIONS:](#)

### [7.4.406: SIGN PLANS AND PERMITS:](#)

### [7.4.407: SIGN MEASUREMENT AND ORIENTATION:](#)

### [7.4.408: SIGN ALLOCATION:](#)

### [7.4.409: SIGN TYPES AND CRITERIA BY SIGN CATEGORY:](#)

### [7.4.410: COORDINATED SIGN PLAN:](#)

### [7.4.411: PROHIBITED SIGNS:](#)

### [7.4.412: SIGNS ALONG STATE HIGHWAYS AND INTERSTATES:](#)

### [7.4.413: NONCONFORMING AND ABANDONED SIGNS:](#)

### [7.4.414: OFF PREMISES ADVERTISING \(BILLBOARDS\):](#)

### **7.4.401: PURPOSE AND INTENT:**

The purpose of this part is to promote the public health, safety and general welfare through reasonable, consistent, and nondiscriminatory sign standards. The sign regulations in this section are not content based, but rather regulate the adverse secondary effects of signs, particularly those that may adversely impact aesthetics and safety. In order to preserve and promote the City of Colorado Springs as a desirable community in which to live, visit, play, and do business in a pleasing, visually attractive environment, safe for motorists and pedestrians, these regulations are intended to:

- A. Promote an attractive "built environment", successful commercial districts, and a healthy local economy while working to incorporate contemporary products, technology and marketing practices and improve understanding, application, flexibility and enforcement of sign regulations and standards.
- B. Highlight the positive contribution signs can make to creating a sense of place in the community and ensure that new sign design standards will allow commercial businesses to function efficiently and effectively. (Ord. 12-15)

### **7.4.402: APPLICABILITY:**

The provisions of this part shall apply to the display, construction, erection, alteration, use, location and maintenance of all signs within the City, unless otherwise exempted in whole or in part. All signs should be consistent with the standards and design considerations set forth in this part. If any provision of this part conflicts with any other adopted City code which regulates signs, this part shall govern. Alternate sign requirements may be included as a part of an FBZ (Form Based Zone) regulating plan. (Ord. 12-15)

#### **7.4.403: EXEMPTIONS:**

The following signs shall be exempt from the provisions of this part:

- A. Works of art.
- B. Official traffic signs, signals and devices.
- C. National, state or City flags.
- D. Official legal notices.
- E. Public warning signs, traffic control and traffic directional signs erected by the City or another governmental agency.
- F. Signs displayed within the interior of a building which are not visible from the exterior of the building.
- G. Holiday decorations.
- H. Human signs so long as the signs are not set down or propped on objects by the human.
- I. Interpretative signs.
- J. Street numbers or addresses.
- K. Private notification signs. (Ord. 12-15)

#### **7.4.404: GENERAL PROVISIONS:**

- A. Uses described in this part are defined and outlined in section [7.2.302](#) of this chapter. Refer to section [7.2.302](#) of this chapter for specific definitions. Each overall use type is listed with specific uses defined. The use of the property will determine the sign allowance.
- B. Residential uses as referenced in this part refer to multi-family dwellings consisting of three (3) or more units as defined in section [7.2.302](#) of this chapter.

- C. The regulating plan for a form based zone (FBZ) may outline or exempt criteria for signs related to uses within the FBZ area.
- D. Signs on which copy is manually changed shall comply with the standards and regulations for wall signs or freestanding signs.
- E. Any light source intended to illuminate a sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe visibility for pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas.
- F. No sign obstructing sight visibility in any direction at the intersection of a street or within an alley or driveway shall be permitted. If a sign is placed at the intersection of two (2) rights of way, the sign must not interfere with sight visibility as described in section 4 of the City Engineering Traffic Criteria Manual. (Ord. 12-15)

#### **7.4.405: DEFINITIONS:**

**ABANDONED SIGN:** Any sign that advertises a business, lessor, owner, product, service or activity that is no longer located on the premises where the sign is displayed and is in disrepair and structurally unsound with potential to cause health, safety and welfare issues.

**ANIMATED SIGN:** A sign which has any visible moving part, flashing or oscillating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that moves, changes, flashes, oscillates or visibly alters the appearance in a manner that is not permitted by these regulations.

**AWNING SIGN:** A sign painted on, attached to or supported by a shelter extending from the exterior wall of a building and composed of nonrigid materials except for the supporting framework (an awning).

**BANNER:** A temporary sign having character, letters, illustrations or ornamentations applied to cloth, paper, fabric or other lightweight nonrigid material, with only such material for a backing, which projects from, hangs from or is affixed to a building, private light pole or a wire. The display surface shall not have blinking or flashing lights, nor be illuminated, animated or constructed of reflective material. Banners include decals, painted imagery, cable hung banners and wave banners.

**BILLBOARD:** A sign which directs attention to a business, activity, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.

**BUILDING LENGTH:** The number of linear feet of the exterior wall of the side of the building where the sign is placed.

**BUILDING PLAQUE:** A plaque designating names of buildings, occupants and/or date of erection and other items such as architect, contractor or others involved in the building creation cut into or attached to the building.

**CANOPY:** A permanent rooflike shelter either not attached to or requiring support from an adjacent

structure.

**CANOPY SIGN:** A permanent sign attached to a canopy or affixed to the sides of a canopy structure. These signs may be below a projecting structure which extends over the pedestrian walkway.

**CHANGEABLE COPY SIGN:** A sign or portion of a sign on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted in or on a track system.

**CONSTRUCTION SIGN:** A temporary sign erected on premises under construction, during the period of construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the construction project.

**COORDINATED SIGN PLAN (CSP):** A coordinated plan or program for all signs, including temporary signs for a business, or businesses located on a development site. The CSP shall include, but not be limited to, indications of the locations, dimensions, colors, letter styles and sign types of all signs to be installed on a site.

**CORPORATE FLAG:** Any flags other than national, state, or City flags which have copy or logos.

**DECORATIVE FLAG:** Flags with no copy or logos.

**DIRECTIONAL SIGN:** A permanent sign located on private property at or near the public right of way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified locations on the property.

**DIRECTORY (Freestanding):** A sign directing users or patrons around a property or center. Examples include, but not limited to, office building directories, builder/developer directories and commercial center directories.

**ELECTION SIGN:** A sign designed for the purpose of supporting or opposing a candidate, issue, proposition or other measure at an election or for any other noncommercial expression not related to the advertisement of any product or service or the identification of any business.

**ELECTRONIC MESSAGE CENTER (EMC):** A sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

**EXTERNAL USAGE SIGN:** Signs for goods or services normally provided outside of the principal structure. Examples include drive-through lanes, automated teller machines, car wash and gas station vacuums.

**FLASHING:** A pattern of sudden alternation between a fully illuminated message and a message without illumination, or a message where the copy color and the background color alternate or reverse color schemes rapidly.

**FREESTANDING SIGN:** A sign which is not attached to a building and is permanently affixed in or upon the ground on one or more structural supports. A freestanding sign shall include, but is not limited to, a pole, monument or low profile type sign.

**GAS ISLAND SIGN:** Includes signs on the gas pump, pump topper and additional signage on the island.



**GOVERNMENTAL SIGN:** A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

**HUMAN SIGN:** Signs that are being carried by people and do not block vehicular or pedestrian traffic.

**ILLEGAL SIGN:** A sign without proper approval or permits as required by this Zoning Code at the time of sign placement. "Illegal sign" shall also mean a sign placed contrary to the terms or time limits of a permit and a nonconforming sign which has not been brought into compliance with any applicable provisions of this Zoning Code.

**INFLATABLE DISPLAY:** A sign consisting of a flexible material envelope of nonporous material inflated or shaped from inserted air or other gas and used to promote special events, grand openings, sales and business transitions. Inflatable displays include air or gas blown devices that wave, lightly or rapidly, in an irregular manner and portable inflatable billboards. Inflatable displays shall not be permitted to have a sound system. Inflatable displays do not include individual latex balloons under eighteen inches (18") in size.

**INTERPRETIVE SIGN:** A sign that demonstrates or interprets the natural or historical surroundings of a place (a preserve, a national park, a scenic view or historic place/monument) to its visitors.

**MENU BOARD/DRIVE-THROUGH:** A sign, permanently mounted, which lists the products or services available at a drive-in or drive-through facility. The sign is not legible from the right of way.

**MESSAGE:** A complete, static display message on an EMC.

**MESSAGE HOLD TIME:** The time interval a static message must remain on the display before transitioning to another message.

**MODEL HOME SIGN:** A sign on or in front of a residential structure that is used as an exhibit, not a private residence or a property that has been used as a private residence, to advertise or market it or other houses.

**MONUMENT SIGN:** A sign identifying a particular area or development. A subdivision monument can pertain to a residential, office, industrial or commercial subdivision.

**MOTOR VEHICLE SIGN:** A sign affixed to an operating motor vehicle that is used as a part of the business operations.

**MURAL:** A picture on an exterior surface of a structure. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business located on the premises.

**NITS:** A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter.

**NONCONFORMING SIGN:** A sign which was validly placed under laws or ordinances in effect at the time of its placement, but which conflicts with the current provisions of this Zoning Code.

**OFF PREMISES SIGN:** A sign normally used for promoting an interest other than that of a business, individual, product, or service available on the premises where the sign is located. This excludes tenant signage within a commercial center or signage established through a CSP and advertising

businesses within the CSP area.

**OFFICIAL LEGAL NOTICE:** Signs that are erected or issued by any governmental agency, court, public body, person, or officer in performance of a public duty or in giving any legal notice, including signs that are required to be posted to give notice of pending action pursuant to the Code of the City of Colorado Springs, as amended.

**ON PREMISES SIGN:** A sign used for promoting a business, individual, product or service available on the premises where the sign is located or any sign promoting businesses within a coordinated sign plan.

**PORTABLE A-FRAME:** A movable sign not permanently attached to the ground or a building and easily removable by hand or using ordinary hand tools.

**PRIVATE NOTIFICATION SIGN:** A sign that regulates actions on private property. Examples include "No Trespassing", "Beware Of Dog", etc.

**PROJECTING SIGN:** A sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall.

**REAL ESTATE SIGN:** A nonpermanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, townhome, condominium and similar units, or apartments. Signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

**SIGN:** Any name, figure, character, outline, display, announcement, or device, or structure supporting the same, or any other device of similar nature designed to attract the attention of passersby to a building or structure, and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. A sign shall not include any architectural or landscape features that may also attract attention.

**SIGN AREA:** An exterior display surface of a sign including nonstructural trim exclusive of the supporting structure.

**TEMPORARY RETAIL SIGN:** A sign constructed of cloth, canvas, fabric, plywood or other light material permitted in conjunction with an approved temporary vendor use.

**TEMPORARY SIGN:** A sign constructed of cloth, canvas, fabric, plywood or other light material and displayed for a short period of time as described in this part.

**TRANSITION DURATION:** The time interval it takes the display to change from one complete static message to another complete static message.

**TRANSITION METHOD:** A visual effect applied to a message to transition from one message to the next. Transition methods include:

- A. Dissolve: A frame effect accomplished by varying the light intensity or pattern, in which the first frame gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second frame.

B. Fade: A frame effect accomplished by varying the light intensity, where the first frame gradually reduces intensity to the point of not being legible (i.e., fading to black) and the subsequent frame gradually increases intensity to the point of legibility.

WALL SIGN: A sign attached to or painted on the wall of building or structure in a plane parallel or approximately parallel to the plane of the wall.

WINDOW SIGN: A sign viewable through and/or affixed in a manner to a window or exterior glass door so that it is intended to be viewable from the exterior of the building (beyond the sidewalk immediately adjacent to the window), including signs located inside a building but visible primarily from the exterior of the building.

WORK OF ART: Art which in no way identifies a product, business, or enterprise and which is not displayed in conjunction with the commercial enterprise on the property.

YARD/WALL SIGN: A sign displayed in a yard or attached to a building face that communicates a noncommercial message. (Ord. 12-15)

#### **7.4.406: SIGN PLANS AND PERMITS:**

A sign plan must accompany the sign permit for all new signs when required and be submitted to and approved by the Community Development Department under criteria set forth in this section prior to being presented to the Building Official for issuance of sign permit. Sign permits must comply with the requirements of the Pikes Peak Regional Building Department.

A. Plan Requirements: The plan shall show the following information:

1. Building locations and dimensions;
2. Size, location and type of any existing sign and the proposed sign or signs. Show sign on building elevation if a wall sign;
3. Nearest street intersections;
4. Zoning of the subject property;
5. Name of applicant and sign installer;
6. Sight visibility as described in subsection [7.4.404F](#) of this part if applicable;
7. Sign type; and
8. Specifications on illumination for EMCs shall include the manufacturer's specifications, nit rating and the method of dimming.

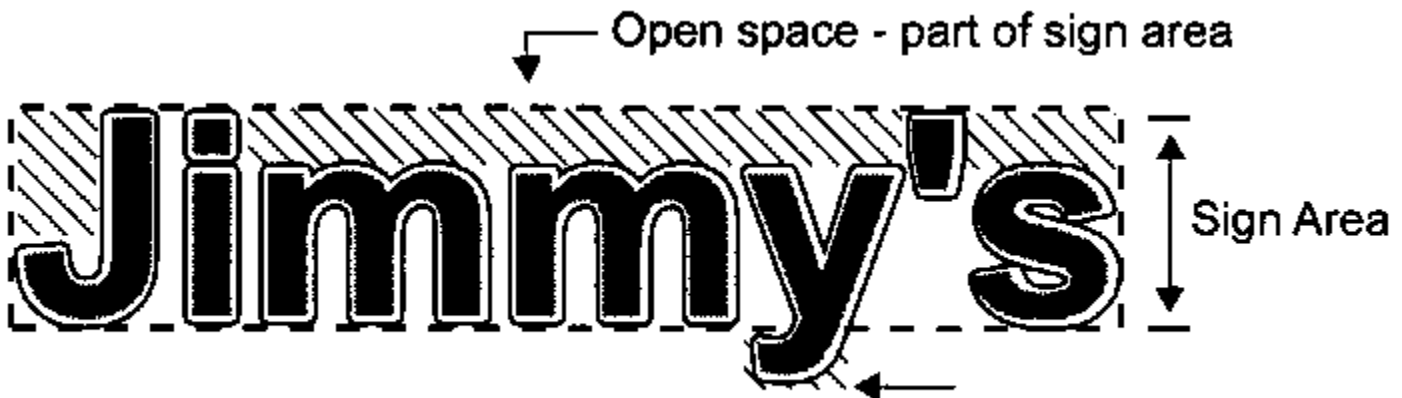
B. Existence Of Utility Facilities Or Easements: The applicant is encouraged to contact Colorado Springs Utilities before design is complete to determine the existence of utility facilities or utility easements.

- C. Owner Authorization: A sign shall not be placed on any property without written consent of the owner or the owner's authorized agent.
- D. Shared Signage: A letter pertaining to shared signage must be signed by the property owner or the property owner's representative and submitted with the sign plan.
- E. Existence Of Illegal Signs: Sign plans will not be approved for new signs proposed on property where illegal signs exist.
- F. Issuance Of Building Permit: Sign plans will not be approved until a building permit for the site has been issued, if applicable. (Ord. 12-15)

**7.4.407: SIGN MEASUREMENT AND ORIENTATION:** 🌐 📄

- A. Wall sign area shall include the entire face of the sign, frame, and artwork incidental to its decoration and includes any spacing between letters, figures, and designs but shall not include the bracing or structure. When the sign consists only of letters, designs, or figures, the total area of the sign shall be calculated by using no more than three (3) standard geometric shapes within which all of the fixed lettering, spacing between letters, and/or artwork is inscribed. Standard geometric shapes include the square, rectangle, triangle, circle, oval and half-circle. Proper font tails of lowercase letters will not be included in the sign area calculation. Customized or extended tails are included.

MEASUREMENT BY ONE GEOMETRIC SHAPE



MEASUREMENT BY TWO GEOMETRIC SHAPES



MEASUREMENT BY THREE GEOMETRIC SHAPES



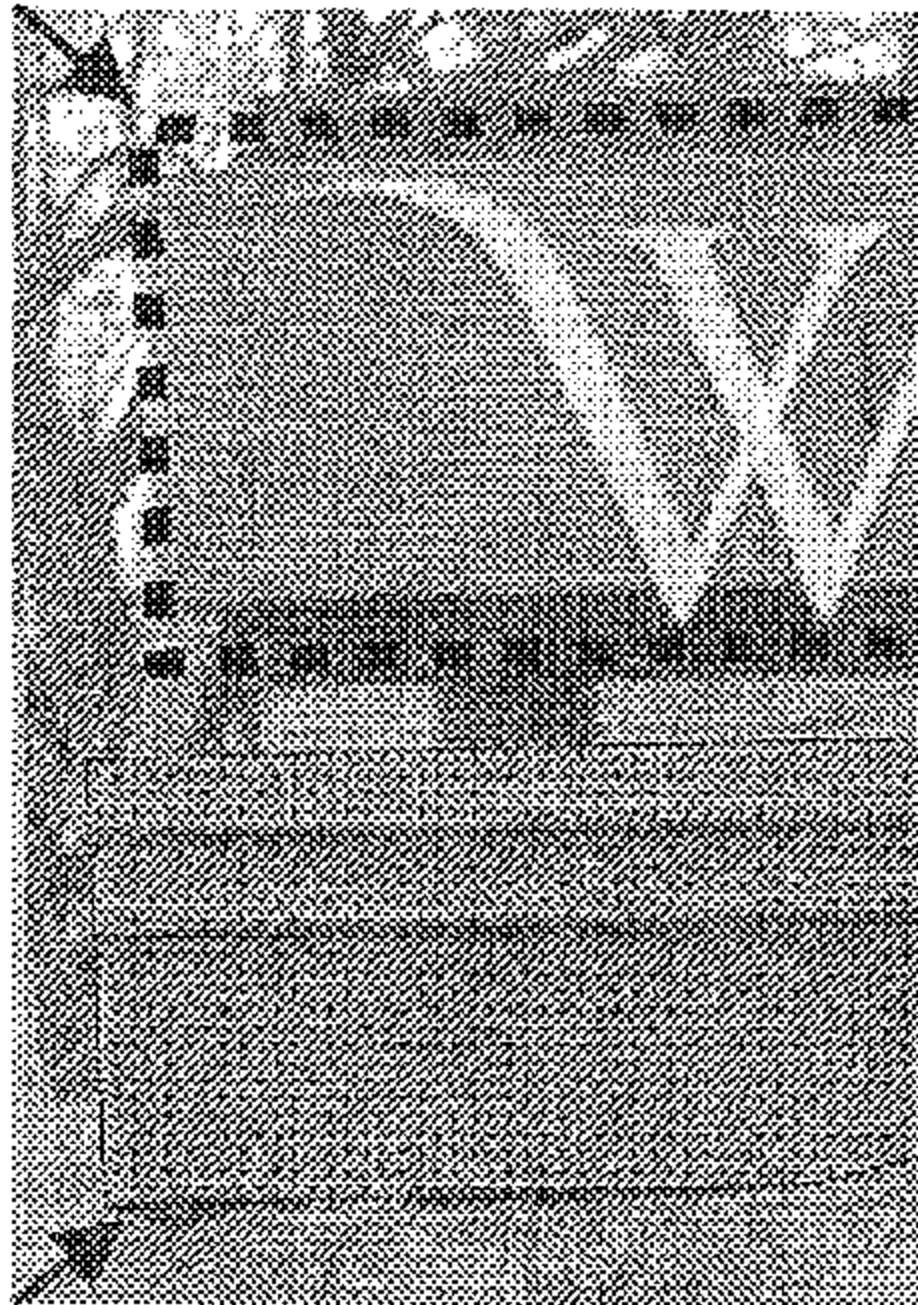
B. Freestanding sign area shall include the frame, if any, but shall not include:

1. A pole or other structural support unless the pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.

2. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.

#### CALCULATION OF FREESTANDING SIGN AREA

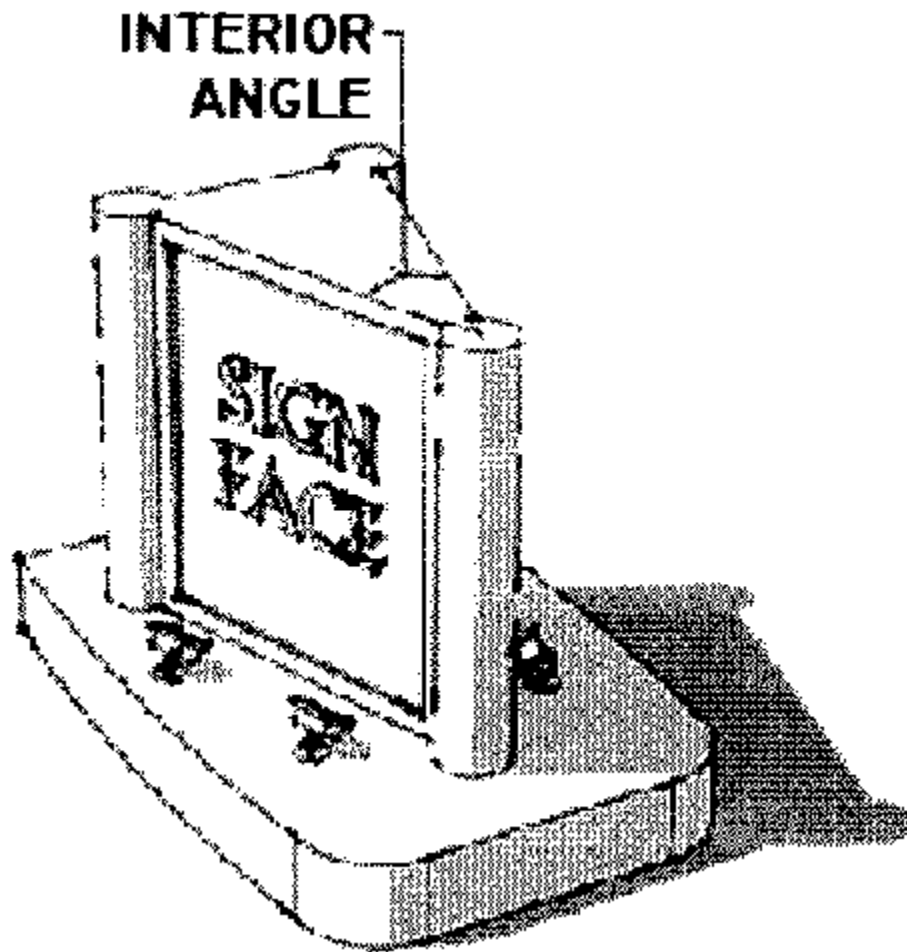
**Black dashed line in**



**Solid base under sign**

C. Clearance for projecting signs shall be measured by the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other embellishments.

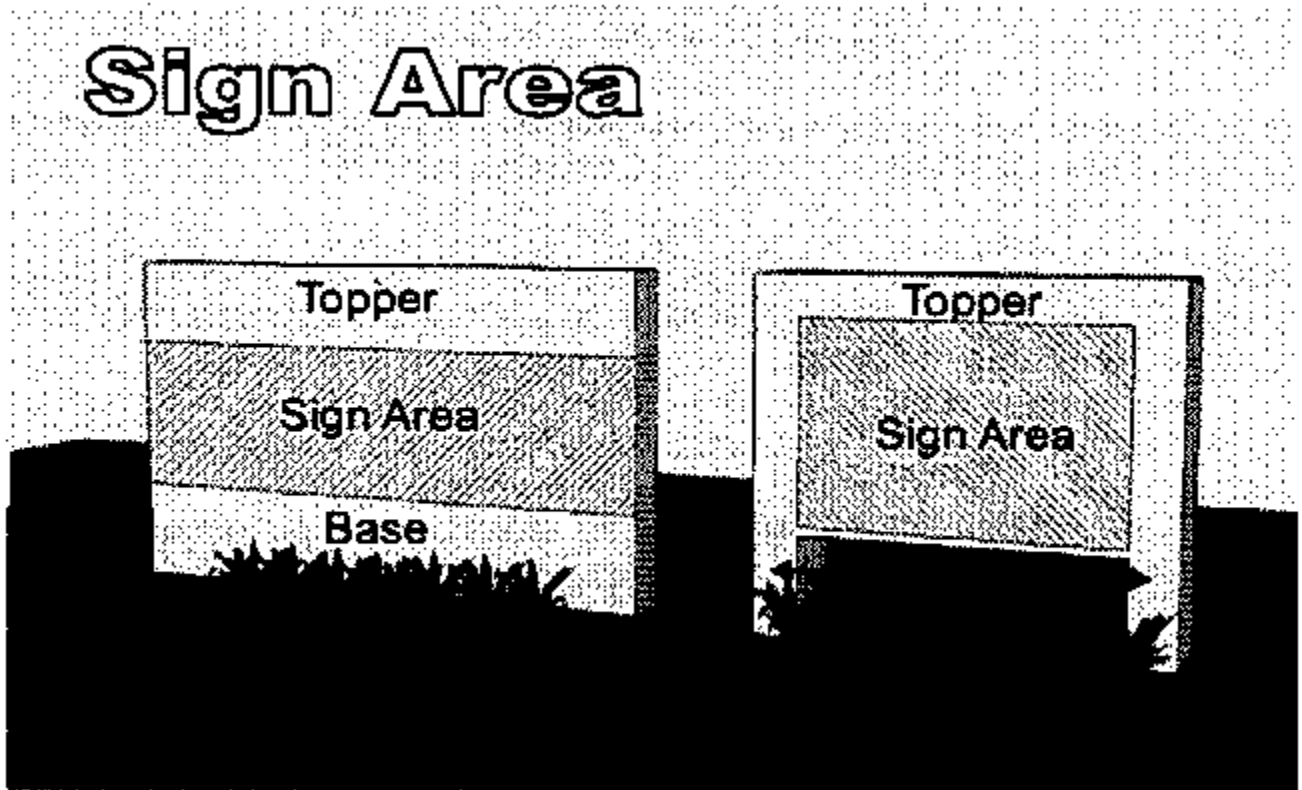
D. All sides of a sign which are visible from any one vantage point shall be measured in determining the area of a sign, except that only one side of a sign shall be measured if the two (2) sides are back to back or separated by an angle of forty five degrees ( $45^{\circ}$ ) or less. If the two (2) sides are not of equal size, the larger side shall be measured. A back to back sign shall have parallel faces, separated by not more than four feet (4').



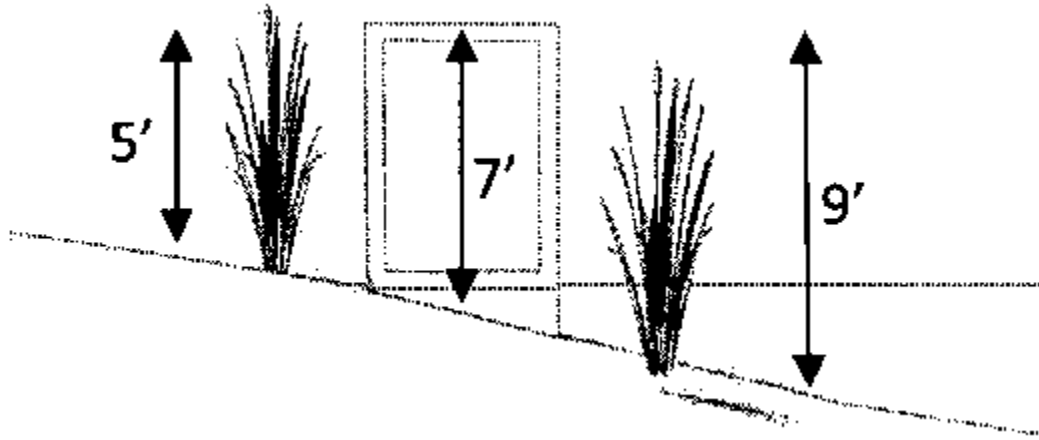
E. A line shall be drawn horizontally across the lowest point of copy or cabinet. The area below this is considered the base and will not be included as sign area. Above the base, lines shall be drawn across the top and bottom of each area of individual copy, continuous message or cabinets. These lines shall extend to the edge of the sign on monoliths and to the poles or pole covers on other types of signs. The area within these lines shall be included in the sign area calculation. If blank areas or air spaces between the copy and/or cabinet are less than six inches



(6") then these areas shall also be included in the sign area calculation. Irregular spaces shall be measured at the median point. Any area above the highest point of copy or cabinet shall be considered a topper since it is not required for the support of any copy. The sign area calculation shall not include any portion of a topper so long as the topper portion does not exceed twenty five percent (25%) of the total allowable sign area.



- F. The height of any sign shall be determined by the distance between the topmost portion of the sign structure and the ground elevation at the base of the sign. The grade may not be artificially changed to affect the sign height measurement. Signs on a slope are measured at the midpoint of the sign.



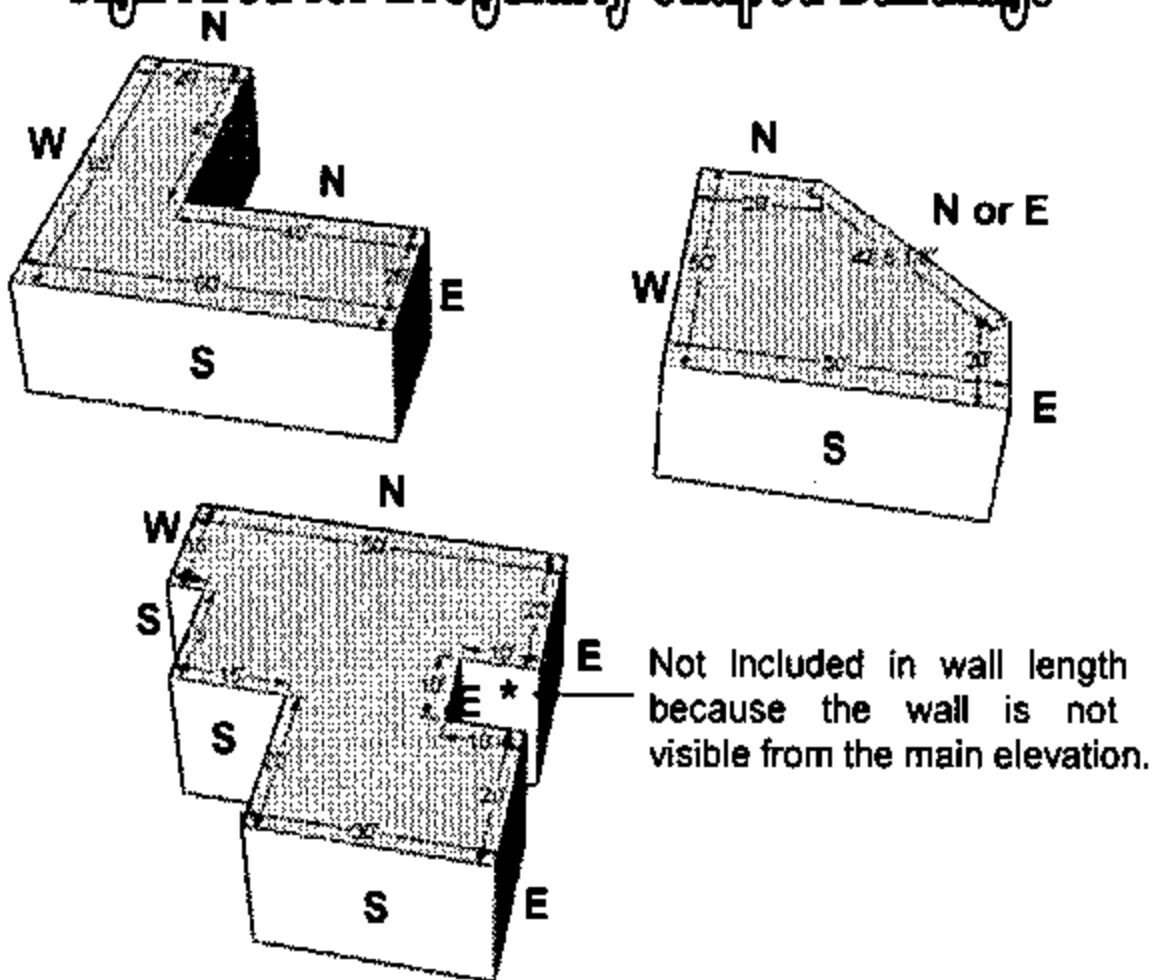
(Ord. 12-15)

**7.4.408: SIGN ALLOCATION:**  

A. Sign Allocation For Irregularly Shaped Buildings:

1. Sign allocation is based on the use of the property, and linear frontage of exterior walls. Signs must be placed on the frontage from which they draw their allocation, unless otherwise approved with a CSP. For the purpose of this part, all walls of a building shall be designated either north, south, east, or west.
2. Walls at a forty five degree (45°) angle must be designated as one of two (2) directions. The signs allocated to the angle wall may be placed anywhere on the wall to which it is designated.
3. If a wall is not visible from a specific elevation, it does not contribute any sign allocation to that elevation.

# Sign Area for Irregularly Shaped Buildings



B. Sign Allocation For A Commercial Center: In any commercial center in which sign allocation is part of a CSP for the center as a whole, signs may advertise properties located anywhere in the center and plan area subject to the following:

1. A recommendation from the Colorado Department Of Transportation ("CDOT") shall be required for signs along state or federal highways such as South Circle Drive, Nevada Avenue, Highway 24, and Interstate 25 and Powers Boulevard (State Highway 21).
2. CDOT does not necessarily recognize the same sign rights as the City. It is the responsibility of the property owner and applicant to determine the CDOT regulations as they apply to the property and ensure compliance with those regulations.

C. Shared Signage:

1. In multi-tenant buildings, offices and commercial centers, tenants are permitted to share or borrow signage within the building. If a tenant wishes to have a larger sign than what is entitled based on their leased building frontage, the tenant signage may borrow from the balance of the center. Signage may not be transferred between elevations or between buildings unless outlined in a CSP. No tenant may use shared signage beyond one and one-half (1<sup>1/2</sup>) times their allocation.
2. Within a commercial center, freestanding signage may be maximized by combining allowed freestanding signs to accommodate a larger sign for multiple uses in the center, as authorized by an approved CSP in accord with section [7.4.410](#) of this part. (Ord. 12-15)

**7.4.409: SIGN TYPES AND CRITERIA BY SIGN CATEGORY:**  

A. Major Sign Types:

1. Wall:

Use	Permit Required	Maximum Size	Number	Maximum Height	Additional Criteria
Residential	Yes	40 sq. ft.	1	n/a	Allowance applies to properties with 3 or more units
Office	Yes	1 sq. ft. multiplied by the building length	No limit, but shall not exceed maximum total square footage per elevation	Shall not project over roofline	See subsection B1 of this section
Commercial	Yes	1.5 sq. ft. multiplied by the building length  2 sq. ft. multiplied by the building length when set back >200 ft. from the	No limit, but shall not exceed maximum total square footage per elevation	Shall not project over roofline	See subsection B1 of this section

		public right of way			
Industrial	Yes	1.5 sq. ft. multiplied by the building length	No limit, but shall not exceed maximum total square footage per elevation	Shall not project over roofline	See subsection B1 of this section
Mixed use	Yes	1.5 sq. ft. multiplied by the building length	No limit, but shall not exceed maximum total square footage per elevation	Shall not project over roofline	Shall be part of a CSP  See subsection B1 of this section
Civic	Yes	1 sq. ft. multiplied by the building length	No limit, but shall not exceed maximum total square footage per elevation	Shall not project over roofline	Walls adjacent to residential uses do not qualify for signage allowance  See subsection B1 of this section

2. Freestanding:

Use	Permit Required	Linear Property Frontage	Maximum Size	Number	Maximum Height	Setback	Additional Criteria
Residential	Yes	All	32 sq. ft.	1	7 ft.	None	Allowance for 3

							or more units
Office	Yes	<160 ft.	34 sq. ft.	1	7 ft.	None	Size area and height rounded to the nearest whole number
		≥160 ft.	0.25 sq. ft. per linear foot of lot frontage	1	0.06 ft. per linear foot of lot frontage, maximum of 25 ft.		See subsection B2 of this section
		≥1,000 ft.	0.25 sq. ft. per linear foot of lot frontage  *Maximum for all is 100 sq. ft.	2 plus 1 additional sign for every additional 1,000 ft. of lot frontage	25 ft.		
Commercial	Yes	<160 ft.	42 sq. ft.	1	7 ft.	None	Size area and height rounded to the nearest whole

							number
		≥160 ft.	0.35 sq. ft. per linear foot of lot frontage	1	0.07 ft. per linear foot of lot frontage, maximum of 30 ft.		See subsection B2 of this section
		≥1,000 ft.	0.35 sq. ft. per linear foot of lot frontage	2 plus 1 sign for every additional 1,000 ft. of lot frontage	30 ft.		
		≥1,500 ft.	0.35 sq. ft. per linear foot of lot frontage  *Maximum of 150 sq. ft.	2 plus 1 sign for every additional 1,000 ft. of lot frontage	35 ft.		
Industrial	Yes	<160 ft.	34 sq. ft.	1	7 ft.	None	Size area and height rounded to the nearest whole

							number
		≥160 ft.	0.25 sq. ft. per linear foot of lot frontage	1	0.06 ft. per linear foot of lot frontage, maximum of 25 ft.		See subsection B2 of this section
		≥1,000 ft.	0.25 sq. ft. per linear foot of lot frontage	2 plus 1 sign for every additional 1,000 ft. of lot frontage	25 ft.		
		≥1,500 ft.	0.25 sq. ft. per linear foot of lot frontage	2 plus 1 sign for every additional 1,000 ft. of lot frontage	35 ft.		
			*Maximum of 150 sq. ft.				
Mixed use	Yes	The size, number and height of signs is defined by the CSP. See section 7.4.410 of this part					
Civic	Yes	All	64 sq. ft.	1	7 ft.	None	Lighting impacts

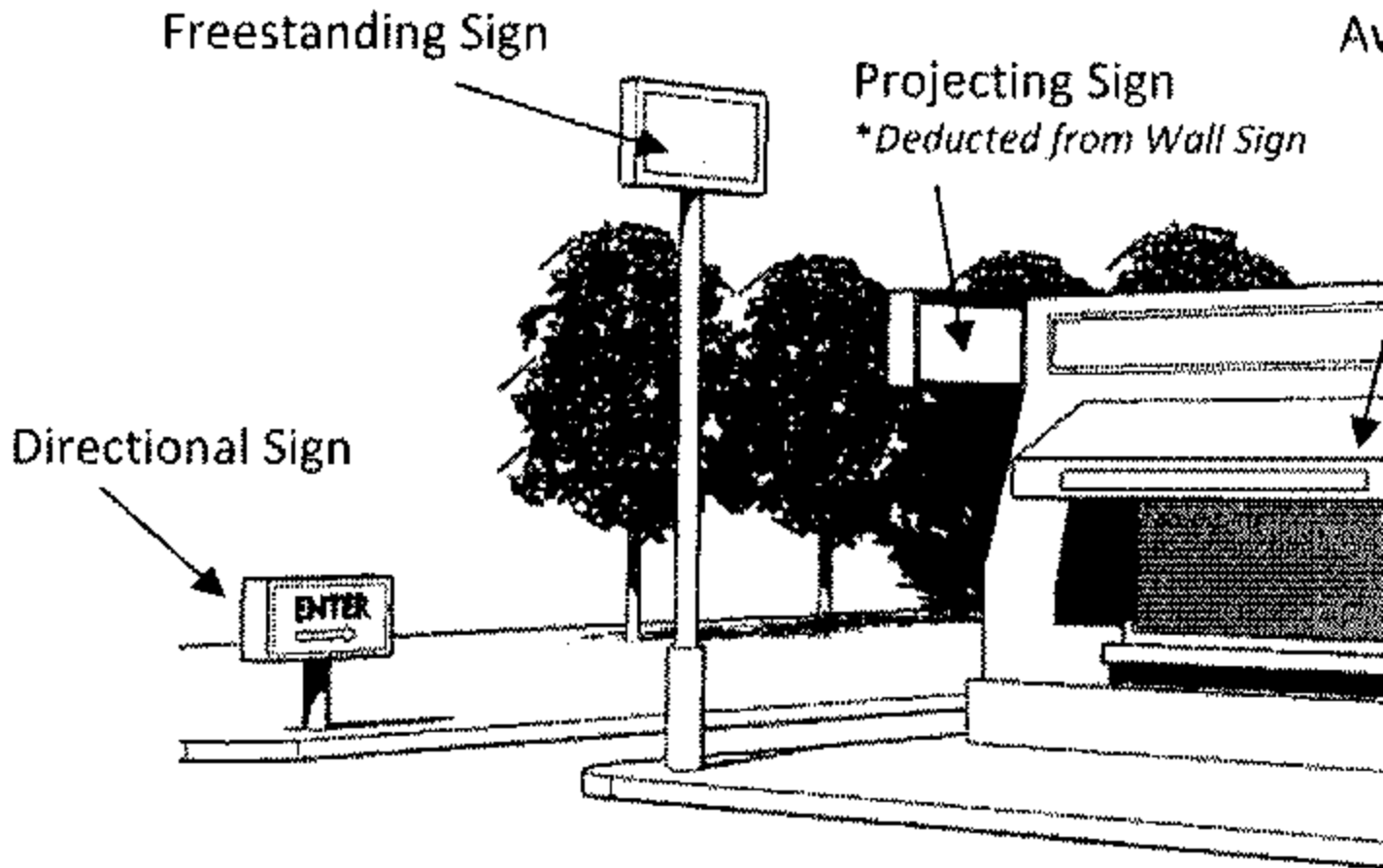


								to adjacent residential properties shall be limited and reviewed through the sign permit
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3. Electronic Message Center (EMC):

Use	Type	Permit Required	Maximum Size	Number	Hold Time	Transition Duration	Transition Method	Additional Criteria
Residential	Integrated into freestanding sign	Not permitted	n/a	None	n/a	n/a	n/a	n/a
Office	Integrated into freestanding sign	Not permitted	n/a	None	n/a	n/a	n/a	n/a
Commercial	Integrated into freestanding sign	Yes	Up to 50% of allowed sign area	1 per property	10 seconds	<1 second	Fade or dissolve	See subsection B3 of this section
Industrial	Integrated into freestanding sign	Not permitted	n/a	None	n/a	n/a	n/a	n/a

	ding sign							
Mixed use	Integrated into freestanding sign	Yes - with CSP only	Up to 50% of allowed sign area	1 per property	10 seconds	<1 second	Fade or dissolve	See subsection B3 of this section
Civic	Integrated into freestanding sign	Not permitted	n/a	None	n/a	n/a	n/a	n/a



## B. Additional Criteria For Major Sign Types:

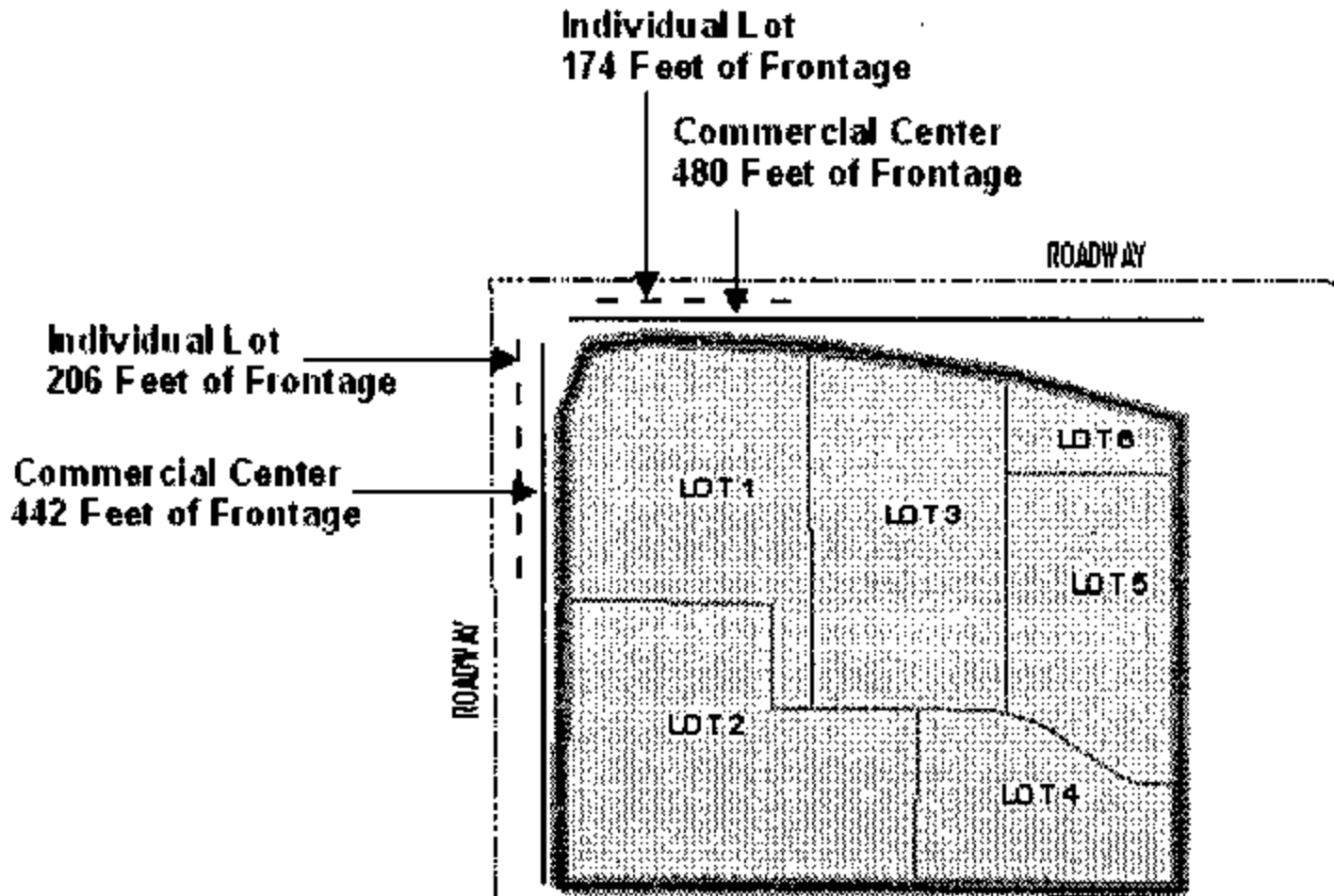
### 1. Wall Signs:

- a. The minimum sign area for each tenant shall not be less than twenty five (25) square feet.
- b. Each tenant may have multiple wall signs per elevation so long as the total wall sign area does not exceed the allowance established for each elevation.

- c. Additional building signs are permitted for a building with five (5) or more floors, which is eligible for double the wall signage allotment. The additional allotment must be placed at the fifth floor level or higher. All other wall sign criteria apply.
- d. A wall sign extending more than twelve inches (12") from the building shall be considered a projecting sign.
- e. Projecting signs are permitted, as part of the allowance for wall signs when designed and placed for the purpose of identifying the businesses for a pedestrian walking along the same side of the street as the business they seek or under a canopy projecting from the building.
  - (1) Signs projecting under a canopy shall have a maximum area of eight (8) square feet; the bottom of the sign shall be a minimum of eight feet (8') above the sidewalk.
  - (2) A sign projecting over a vehicular area shall not be less than fourteen feet (14') above finished grade.
  - (3) A sign projecting over a pedestrian area shall not be less than eight feet (8') above finished grade.
  - (4) The sign shall not project more than six feet (6') from the wall of the building on which the sign is placed. Adjacent projecting signs shall not be closer than twenty feet (20').

## 2. Freestanding Signs:

- a. Each property or parcel of land is allowed a minimum of one freestanding sign with an area defined by the linear frontage of the property.
- b. No portion of a freestanding sign shall be in or project over a public right of way. No freestanding sign shall be placed within an existing or proposed easement.
- c. As part of a CSP, the total permitted sign area may be aggregated into fewer and larger signs, at the election of the property owner within a commercial center, provided that the size of any single sign does not exceed the standard permitted sign area by more than thirty percent (30%).
- d. Freestanding signage area is determined based on the primary frontage of the lot. The property owner determines the primary frontage and may place the sign accordingly. A commercial center may have two (2) primary frontages approved by a CSP.



An individual corner lot can pick 1 primary frontage for freestanding sign calculation. This lot has 206 feet of frontage for their sign calculation.

A corner commercial center with a Coordinated Sign Plan can utilize 2 frontages for the freestanding sign calculation. Over 900 feet of frontage can be used for freestanding calculation in this scenario.

3. Electronic Message Centers (EMC):

- a. Shall only be allowed as part of a freestanding sign.
- b. Are prohibited for residential uses, but may be allowed as part of a mixed use CSP.
- c. Shall be limited to static messages only, changed only through dissolve or fade transitions which otherwise shall not have movement or the appearance or optical illusion of movement, on any part of the sign structure, design, or pictorial part of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity. The transition duration between messages shall not exceed one second.
- d. Commercial messages displayed shall only direct attention to a business, product, service, activity or entertainment that is conducted, sold or offered on the premises on which the sign is located.

- e. Shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard. Lighting shall not exceed five hundred (500) nits or 0.3 foot-candle between dusk to dawn as measured from the face of the sign.
- f. Documentation shall be required from the sign manufacturer which verifies compliance with auto dimming and brightness requirements.
- g. Temporary signage shall be prohibited on any property that has an approved EMC (see subsection E of this section).
- h. Any property that wishes to add an EMC component to an existing freestanding sign must comply with current sign code standards before the EMC is approved.

C. Minor Sign Types: The following chart provides criteria for minor signage permitted provided that it meets the requirements of this section of the Code and all other applicable City regulations are met. See subsection D of this section for additional information related to minor signs.

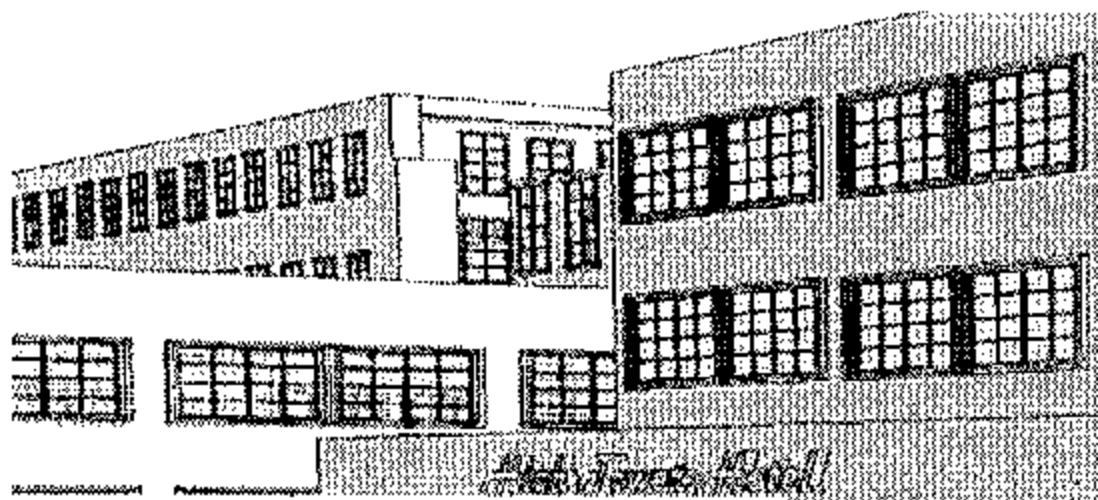
Use	Type	Permit Required	Maximum Size	Number	Maximum Height	Setback	Additional Criteria
All	Awning	Yes	A maximum of 0.5 sq. ft. for each linear foot	n/a	n/a	May extend 6 ft. from the face of building	<p>At least 8 ft. above pedestrian way or 14 ft. above vehicular way</p> <p>Valance may extend 1 ft. below awning</p> <p>Not permitted above first story level of building</p> <p>See subsection D1 of this section</p>

All	Building plaque	No	6 sq. ft.	1 per building	8 ft. attached to building	n/a	Built into building or mounted flat against the wall of a building  Lighting permitted
All	Canopy	Yes	A maximum of 0.5 sq. ft. for each linear foot	1 per canopy elevation	n/a	n/a	Mounted flush on the face of the canopy  Lighting is permitted
All	Corporate flags	No	Not to exceed 3 ft. x 5 ft.	1	Maximum height of zone district	Must meet required setback for accessory uses	See section <a href="#">7.4.405</a> of this part
All	Decorative flags	No	Not to exceed 3 ft. x 5 ft.	1 per 20 ft. of lot frontage	Maximum height of zone district	Must meet required setback for accessory uses	See section <a href="#">7.4.405</a> of this part
All	Directional signs	Yes	6 sq. ft.	Per permit	4 ft.	None	On premises only
All	Directory (freestanding)	Yes	64 sq. ft.	2 per entrance	6 ft.	15 ft. from right	Additional directories may be

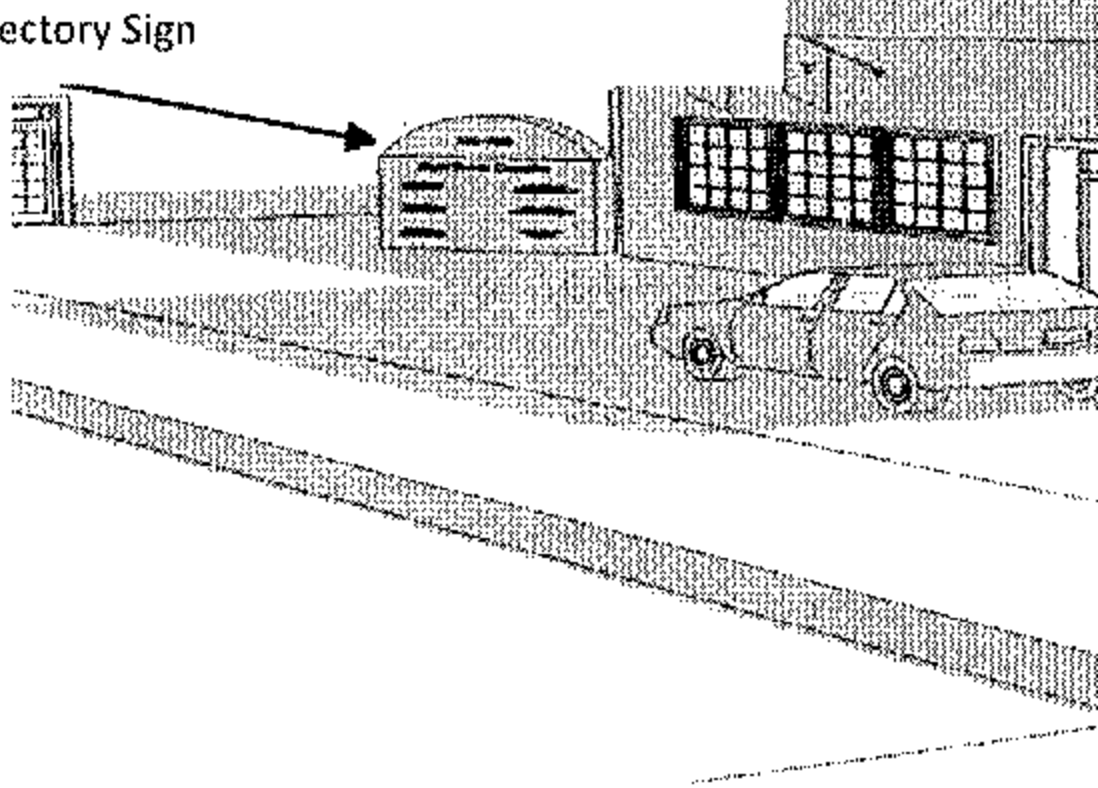
						of way	approved through a CSP
All	External use	No	40 sq. ft.	n/a	n/a	None	Area is total for all external uses on the site, may be used in any combination
Commercial	Gas island	No	32 sq. ft. total	1 per gas topper	n/a	n/a	Copy oriented to the right of way shall not exceed 2 in. in height
All	Historic signs	Yes	Sign and structure must be at least 50 years old to qualify. See subsection D2 of this section				
Commercial	Menu board/drive-through	Yes	75 sq. ft. per drive-through lane	2 per drive-through lane	6 ft.	10 ft.	Readable only by traffic in the drive-through lane  Lighting permitted
All	Monument sign	Yes	128 sq. ft.	2 signs per access from a major arterial or collector	7 ft.	None	See subsection D4 of this section

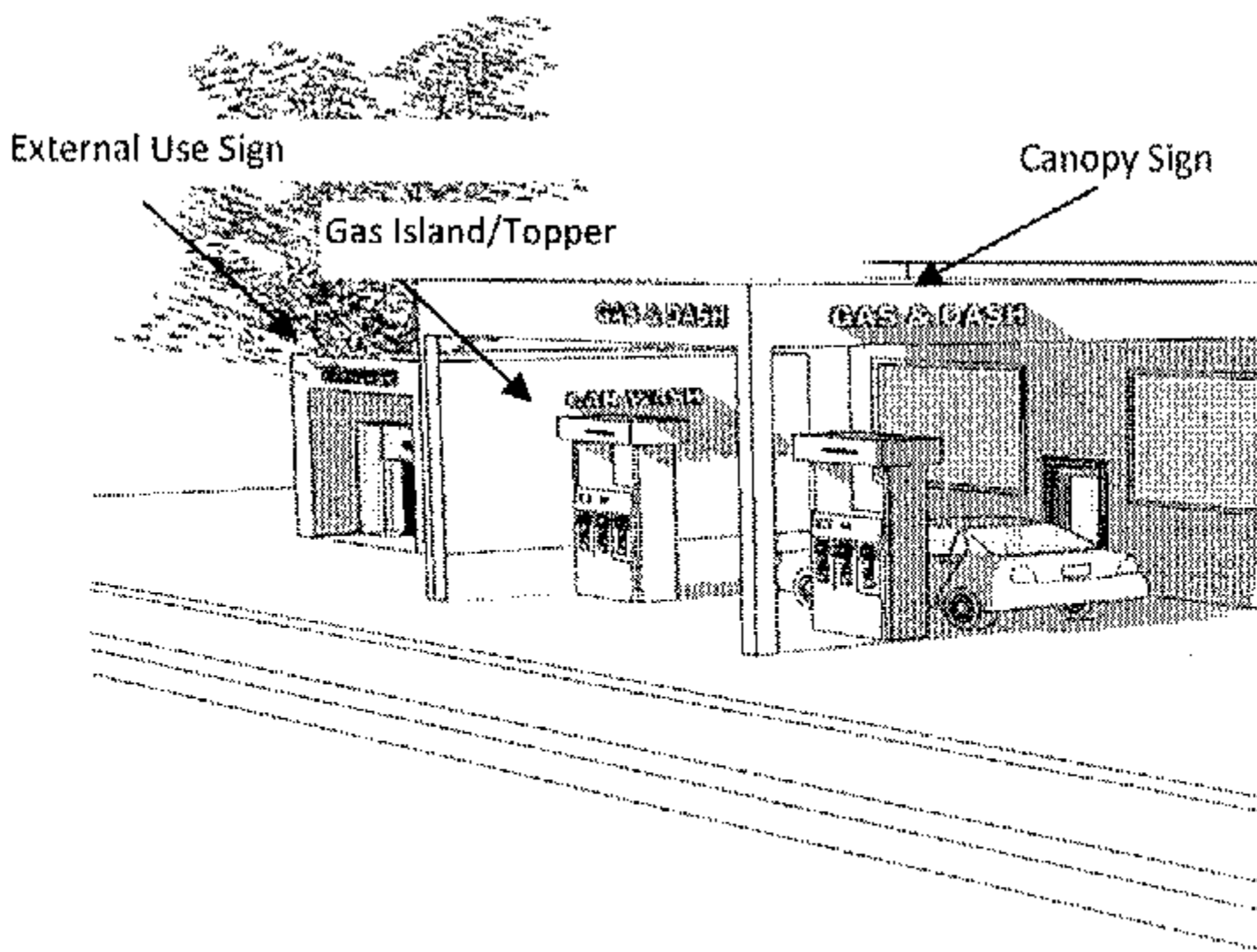


All	Motor vehicle signs	Signs that are permanently painted or affixed to a vehicle for advertising purposes. See subsection D3 of this section					
All	Mural	No	Any portion of the mural which is considered a sign will deduct from the wall signage for that wall				
All	Window signs	No	25% of the window (s)	None	n/a	n/a	Permitted on first floor windows only  Lighting permitted
All	Yard/wall	No	6 sq. ft.	1	4 ft. when freestanding	n/a	



Freestanding Directory Sign





D. Minor Sign Types, Additional Criteria:

1. Awning And Canopy:

a. The sign or signs must be placed on the side of the awning or canopy from which it draws its allowed square footage.

b. Signs may not extend above, below or beyond the awning or canopy.

c. Awnings and canopies may be backlit.

2. Historic Signs: May be kept, used, maintained and displayed, subject to the following conditions:

a. The applicant must provide documentation that the sign has been at its present location for a minimum of fifty (50) years prior to approval of a sign permit.

b. The sign is structurally safe or capable of being made structurally safe without substantially altering its historic character. The property owner is responsible for making all structural repairs and restoration of the sign to its original condition.

c. The sign is representative of signs from the era in which it was constructed and provides evidence of the historic use of the building or premises.

d. Approved historic signs will not be considered abandoned so long as they continue to meet the conditions above.

e. Historic signs may be retained on a property in addition to new signs permitted by this section.

3. Motor Vehicle Signs: Signs may be placed on motor vehicles provided:

a. Each sign must be permanently painted or affixed to the vehicle.

b. No sign shall project more than one foot (1') above the roofline of the vehicle to which it is attached.

c. The vehicle upon which the sign is affixed must be used for the normal operation of the business and not primarily used to display signage.

d. The vehicle must be moved at least once every seventy two (72) hours.

e. When not in use, the vehicle must be parked on the premises of the business that it advertises.

f. The vehicle must be parked in a legal parking space.

g. The vehicle may not block any other legally permitted signs.

h. Special event vehicles are exempt from this subsection D3.

4. Monument Sign Or Subdivision Monument: Permanent subdivision monument signs must be incorporated into entryways from major arterials or collector streets. Monument or subdivision monument signs:

a. Shall include the name of the subdivision or development.

b. Shall be located at the principal street entrance to the subdivision or development.

- c. Shall not be located in the public right of way without obtaining a revocable permit pursuant to section [3.2.201](#) of this Code.
- d. Shall be constructed of masonry or other substantial materials.
- e. May be placed on a subdivision wall, or other background, provided a sign permit is approved.
- f. Shall be limited to two (2) signs per subdivision entrance (1 sign on each side of the entryway).
- g. Shall be insured and maintained by the homeowners' association or other appropriate entity. Adequate provisions to maintain the sign must be provided by covenant or through the homeowners' association.

E. Temporary Signage Criteria: Temporary signs shall be allowed per property in addition to the permanent signage permitted in this section unless otherwise stated in this Zoning Code. The following chart provides criteria for temporary signage permitted provided that it meets the requirements of this section and all other applicable City regulations. See subsection F of this section for additional information related to temporary signs.

Use	Type	Permit Required	Maximum Size	Number	Maximum Height	Setback	Additional Criteria
All	Banner	Yes				Not attached to T-posts, walls or fences  Not permitted in landscape areas	Criteria vary for residential and nonresidential uses  See subsection F1 of this section
All	Construction	No	6 sq. ft.	5 per lot frontage	n/a	2 ft. from street or public	Additional allowances based on lot




						sidewalk	size and additional criteria  See subsection F3 of this section
All	Election	No	6 sq. ft.	5 per lot frontage	n/a	2 ft. from street or public sidewalk	Additional allowances based on lot size and additional criteria  See subsection F3 of this section
All	Garage sale	No	3 sq. ft.	1	n/a	n/a	Used only during the duration of the garage sale and used only on the lot where the garage sale occurs
Nonresidential	Inflatable displays	Yes	n/a	5 per commercial event	Maximum height of the	1½ times the height	See subsection F2 of

					zone district	of the display	this section
All	Model home sign	No	24 sq. ft.	1 per model	6 ft.	n/a	
All	Off premises open house	No	6 sq. ft.	4 per open house - put up 1 hour before and removed 1 hour after	4 ft.	n/a	Private property only, landowner permission required  May not be placed in public rights of way or medians without a revocable permit
All	Off premises real estate	No	32 sq. ft.	1	4 ft.	n/a	Private property only, landowner permission required  May not be placed in public rights of way or medians without a

							<p>revocable permit</p> <p>Removed 14 days after sale or lease</p>
All	Pennants	No	n/a	n/a	n/a	n/a	
Nonresidential	Portable A-frames	No	4 ft. x 2 ft.	1 per individual storefront/tenant or 1 per shared entrance	4 ft.	<p>Within 10 ft. of the main entrance, on the ground surface and not on any vehicle or structure</p>	<p>Lighting not permitted</p> <p>Located only in front of the establishment to which the sign pertains</p> <p>Displayed only during business hours</p> <p>The sign cannot block a sidewalk</p>
All	Real estate	No	6 sq. ft.	5 per lot frontage	n/a	2 ft. from street or public sidewalk	Additional allowances based on lot size and additional



							<p>I criteria</p> <p>See subsection F3 of this section</p>
Nonresidential	Temporary retail	No	32 sq. ft.	1 wall or freestanding	7 ft.	None	<p>Removed when the use ends</p> <p>Attached to a structure or mounted on posts which are anchored securely into the ground</p> <p>Copy on price signs for merchandise which is displayed outside shall be limited to 2 in. in height</p>

F. Temporary Sign Types Additional Criteria:   

1. Banners:

a. Banners associated with residential uses:

- (1) Size shall not exceed two-tenths (0.20) square foot for each linear foot of property line.
- (2) May be displayed for a maximum of ninety (90) days per calendar year. Display time may be any combination of consecutive days or equal weekend periods and is cumulative for all banners displayed on the property.
- (3) Vertical banners attached to existing private light poles on residential properties shall be no larger than twenty four inches by forty eight inches (24" x 48") and must be hung eight feet (8') from the ground in pedestrian areas and fourteen feet (14') from the ground in vehicular areas.
- (4) Each banner must be kept in good repair (not frayed, faded or sagging) and must remain firmly attached to the building or structure from which it is displayed.
- (5) Banners hung between T-posts, attached to fences, retaining walls and/or vehicles and banners in landscape areas are prohibited.
- (6) No banner may be illuminated, animated or constructed of reflective materials.
- (7) All banners shall display a City permit approval sticker on the bottom left hand corner of the banner.

b. Banners associated with nonresidential uses:

- (1) Banners attached to single-story buildings shall not exceed three-fourths (0.75) square foot for each linear foot of exterior building wall. For multiple-story buildings, banners shall not exceed five percent (5%) of the area of the exterior building wall on which the banners are displayed. A banner must be attached to the exterior building wall from which it draws its allowed square footage. The allowed square footage can be split among several banners or allocated to one single banner.
- (2) Vertical banners attached to existing private light poles shall be no larger than twenty four inches by forty eight inches (24" x 48") and must be hung eight feet (8') from the ground in pedestrian areas and fourteen feet (14') from the ground in vehicular areas.
- (3) Banners may be displayed for a maximum of ninety (90) days per calendar year. Display time may be any combination of consecutive days or equal weekend periods and is cumulative for all banners displayed on the property.
- (4) Each banner must be kept in good repair (not frayed, faded or sagging) and remain firmly attached to the building or private light pole from which it is displayed.
- (5) All banners shall display the City permit approval sticker on the bottom left hand corner of the banner.
- (6) No banner may be illuminated, animated or constructed of reflective materials.
- (7) Banners hung between T-posts, attached to fences, retaining walls or vehicles and banners located in landscape areas are prohibited.
- (8) Banners shall be removed at the permittee's expense at the expiration of the applicable permit.

## 2. Inflatable Displays:

- a. Inflatable displays are not permitted for residential uses.
- b. Inflatable displays may be displayed for fourteen (14) days per commercial event.
- c. No more than two (2) temporary sign permits for inflatable displays may be issued to a business, development or property during a calendar year.
- d. A maximum of five (5) inflatable displays are allowed per commercial event.
- e. Inflatable displays shall be securely anchored or attached to prevent dislocation, entanglement or encroachment onto adjacent properties or public streets, and to prevent undue hazards to motorists or pedestrians.
- f. Ground mounted inflatable displays must be set back from the property line one and one-half (1½) times the height of the inflatable display.
- g. Roof mounted inflatable displays must not exceed the maximum height for the zone district. A tether is required to secure the inflatable display and shall not exceed fifteen feet (15') in length.
- h. Inflatable displays shall not be attached to fences, landscaping, utility poles or private light poles.
- i. Inflatable displays that wave, lightly or rapidly, in an irregular manner and portable inflatable billboards are prohibited in all zone districts.

## 3. Election Signs, Construction Signs, Real Estate Signs: In addition to the allowances outlined in the temporary signs table in subsection E of this section, the following allowances and standards apply to political/election, construction and real estate sign:

### a. Residential Uses/Property/Lots:

- (1) One to five (5) acres: One sign per street frontage not to exceed thirty two (32) square feet per sign.
- (2) Five (5) to ten (10) acres: Two (2) signs not to exceed thirty two (32) square feet per sign or one sign not to exceed sixty four (64) square feet.
- (3) Greater than ten (10) acres: Three (3) signs not to exceed thirty two (32) square feet per sign or two (2) signs not to exceed forty eight (48) square feet per sign or one sign not to exceed ninety six (96) square feet.

### b. All Other Uses/Property/Lots:

- (1) Less than one acre: One sign per street frontage not to exceed thirty two (32) square feet per sign.
- (2) One to five (5) acres: One sign per street frontage not to exceed sixty four (64) square feet per sign.
- (3) Five (5) to ten (10) acres: Two (2) signs not to exceed sixty four (64) square feet per sign or one sign not to exceed one hundred twenty eight (128) square feet.

(4) Greater than ten (10) acres: Three (3) signs not to exceed sixty four (64) square feet per sign or two (2) signs not to exceed one hundred twenty eight (128) square feet per sign.

c. Removal: These signs must be removed not later than fourteen (14) days after:

- (1) Sale, lease or removal of the property from the market.
- (2) Issuance of a certificate of occupancy or final building inspection.

d. Placement:

- (1) Landowner permission is required before placing one of these sign types on or within the right of way in front of private or publicly owned property in accord with section [7.4.406](#) of this part.
- (2) Signs may not be placed within City owned right of way unless a revocable permit has been granted in accord with subsection [3.2.217D](#) of this Code.
- (3) Signs may not be placed within state right of way without the express approval of CDOT.
- (4) Signs are not permitted to be attached to public or City owned infrastructure, facilities, utility poles or signposts. (Ord. 12-15)

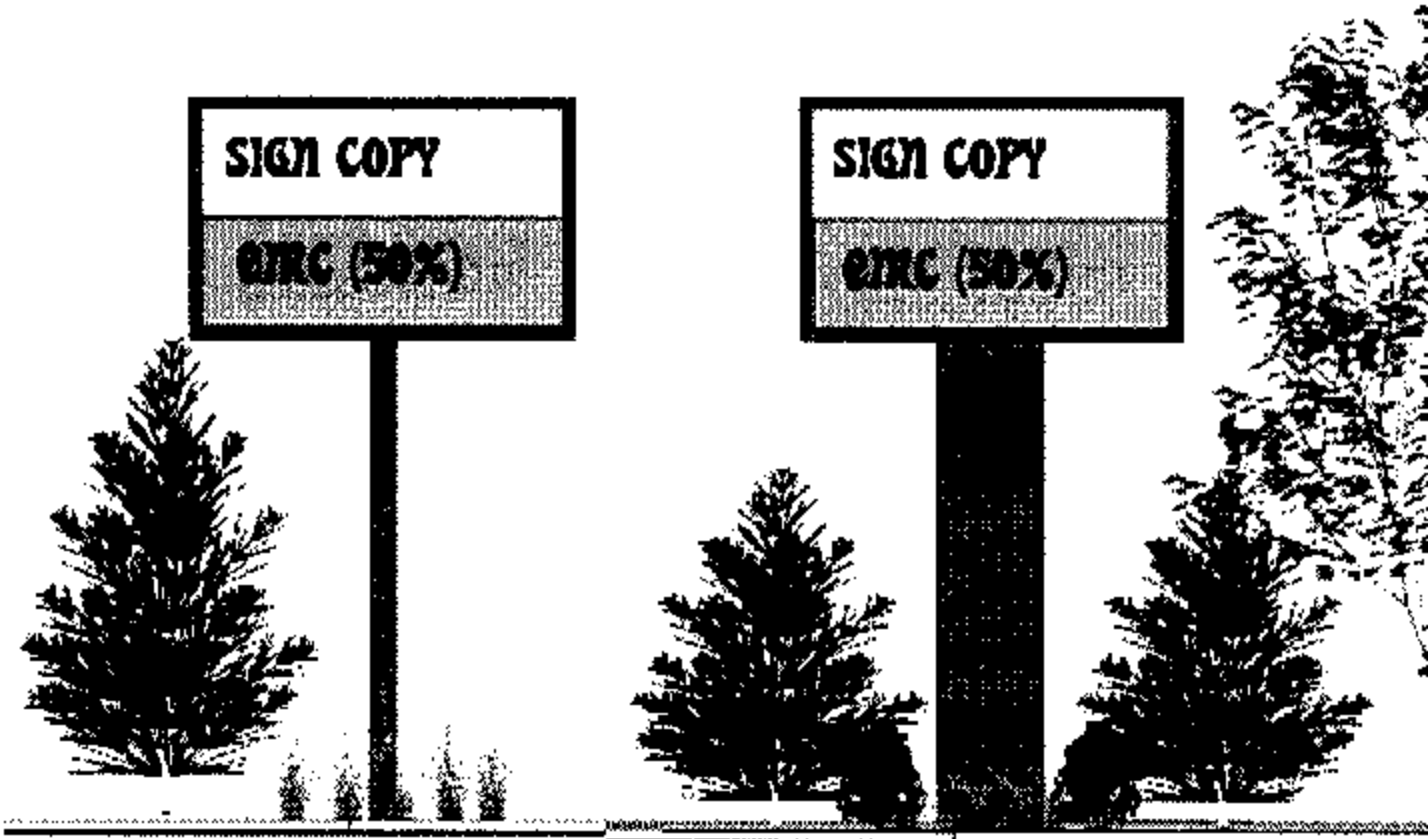
#### **7.4.410: COORDINATED SIGN PLAN:**

Owners or developers of property that desire signage that varies from the requirements of this Sign Code or owners that would like unified commercial center signage may apply for approval of a coordinated sign plan (CSP) for the entire site. This plan will be reviewed and approved by Community Development staff and may be referred to Planning Commission for approval. A CSP shall include the design, color, size, height, lighting, location, number and construction type of all signs in the area proposed for the CSP. Each CSP shall be subject to review and approval as required.

The coordinated sign plan shall be for the use of commercial centers only or three (3) or more properties/lots together as a center with planned signage.

A CSP may be submitted that permits consideration of unique conditions, flexibility and creativity. The application of such plan may permit additional signs and/or sign area based on the applicant's demonstration of unique characteristics of the design, building, and/or site and appropriate landscaping associated with the freestanding signs. The CSP bonus incentive for the commercial center shall not exceed fifteen percent (15%) of the standards in section [7.4.409](#) of this part without the approval of a nonuse variance. This may be applied to any sign standard and applied to multiple sign standards. Once a CSP has been approved subsequent sign permits shall be approved administratively when the proposed sign is in compliance with the approved CSP.

**EXAMPLES OF SIGNAGE THAT QUALIFIES  
FOR THE CSP BONUS INCENTIVE**



Minimum Code Standard

CSP  
Better Example

CSP Signs

(Ord. 12-15)

**7.4.411: PROHIBITED SIGNS:** 🌐 📧

The following signs and sign types shall be prohibited:

- A. Any sign erected or painted upon light poles, retaining walls, fences, rocks, trees, or natural features unless the sign meets the definition of a low profile or freestanding signs as described in this part.
- B. Any sign displaying flashing or intermittent lights or lights of varying intensity.
- C. Any sign with a digital electronic message that changes in any manner except those permitted by section [7.4.409](#) of this part.

- D. Any sign with direct or indirect lighting that causes direct glare into or upon any lot or tract with a residential use that is adjacent to the lot or tract where the sign is located.
- E. Signs which advertise activities that are unlawful and not recognized as permitted or conditional uses per sections [7.3.103](#) and [7.3.203](#) of this chapter.
- F. Any private sign that is an imitation of an official government protective or warning sign, including signs using the words "Stop" or "Danger" to imply a need or requirement to stop or a caution for the existence of danger, and including signs that are copies of, or which are likely to be confused with, any official government protective or warning sign.
- G. Any sign that obstructs a window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any building as required by law.
- H. The parking of any motor vehicle, recreational vehicle, trailer or other movable device in a manner that the vehicle constitutes a billboard or off premises sign.
- I. Any sign projecting over the facade of the building or attached directly to the roof of a building.  
(Ord. 12-15)

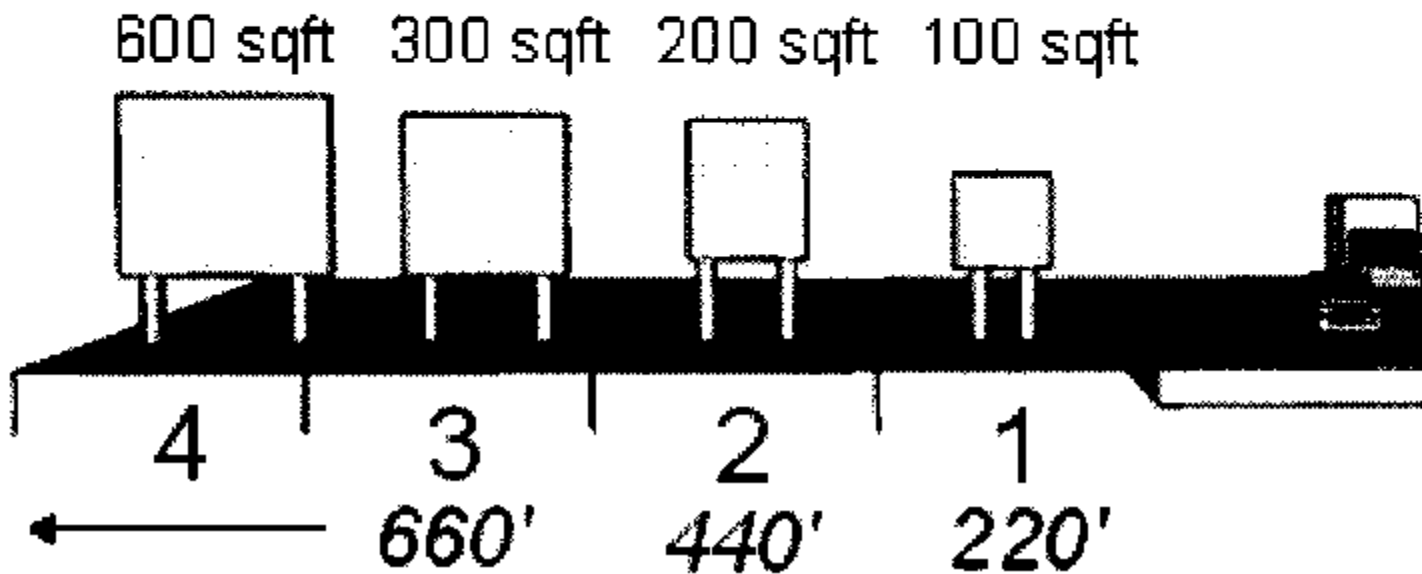
#### **7.4.412: SIGNS ALONG STATE HIGHWAYS AND INTERSTATES:**

For the purpose of regulating signs visible from an interstate highway as defined by Colorado Revised Statutes section 43-2-101(2), there are hereby created the following zones, each zone measured perpendicularly from the boundary of the interstate highway right of way. Frontage roads shall be considered as lying outside the interstate right of way.

- A. Zone number 1: This zone shall be the area within two hundred twenty feet (220') of the interstate right of way boundary. No freestanding, roof, projecting, or low profile signs, the faces of which are visible from the highway, shall exceed one hundred (100) square feet or the area specified in the applicable zone requirement, whichever is more restrictive.
- B. Zone number 2: This zone shall be that area from two hundred twenty feet (220') to four hundred forty feet (440') from the interstate right of way boundary. No freestanding, roof, projecting, or low profile signs, the face of which are visible from the highway, shall exceed two hundred (200) square feet or the area specified in the applicable zone requirement, whichever is more restrictive.
- C. Zone number 3: This zone shall be that area from four hundred forty feet (440') to six hundred sixty feet (660') from the interstate right of way boundary. No freestanding, roof, projecting, or low profile signs, the face of which is visible from the highway, shall exceed three hundred (300) square feet or the area specified in the applicable zone requirement, whichever is more restrictive.

D. Zone number 4: This zone shall be that area more than six hundred sixty feet (660') from the interstate right of way boundary. No freestanding, roof, projecting, or low profile signs, the face of which is visible from the highway boundary, shall exceed six hundred (600) square feet, or the area specified in the applicable zone requirement, whichever is the more restrictive.

# Signs Along Interstate Hi



(Ord. 12-15)

## 7.4.413: NONCONFORMING AND ABANDONED SIGNS:

Any legally established sign in existence at the time of the enactment of this part is considered nonconforming and may remain. A nonconforming sign may continue so long as it is not enlarged, replaced or abandoned. If a nonconforming sign is removed for any reason, it may not be replaced. If fifty percent (50%) or more of the sign area of a nonconforming sign is destroyed, the nonconforming sign may not be repaired or replaced and shall be removed.

Any nonconforming sign upgraded to incorporate an EMC component will lose its legal nonconforming designation. Upgrading to an EMC will require the sign to comply with the provisions of this part.

A nonconforming sign may continue in existence and function provided the sign is maintained in good condition.

An abandoned sign that is deemed to be in disrepair and structurally unsound with the potential to

cause health, safety and welfare concerns must be removed and will lose its nonconforming designation. (Ord. 12-15)

#### **7.4.414: OFF PREMISES ADVERTISING (BILLBOARDS):**

All new billboards shall comply with the following:

A. Purposes And Intent: The purpose of this part is to limit the impact of billboards on the community; to improve the appearance of the Interstate 25, Highway 24, Highway 24 bypass and Municipal Airport entryway corridors; to enhance the urban design of the greater downtown area; to ensure compatibility between billboards and adjacent land uses; and to limit the impact that billboards have on sign clutter in the community. The City recognizes that billboards are a necessary and appropriate advertising medium, and that there are acceptable and viable locations for billboards within the community.

It is the intent of this part to address the following specific concerns regarding the impact of billboards upon the community:

1. The citizens of Colorado Springs and others visiting or traveling through the City are very concerned about the urban design and visual integrity of the City.
2. Billboards are often incongruous with the City's natural setting and features due to their large scale figures, numbers, letters and colors.
3. A billboard can dominate the view from vehicles and interfere with the occupants' enjoyment of the City's natural setting and features.
4. A high concentration of billboards may create traffic safety problems and distract attention away from public safety signs.
5. Billboards of excessive size or height should be downsized within a reasonable time period.
6. Billboards are incompatible with residential uses.
7. The Interstate 25, Highway 24, Highway 24 bypass and Municipal Airport entryway corridors are major entryways to the City which are of particular importance in terms of urban design and public perception to citizens, visitors and tourists.
8. The downtown planning area is an area in which urban design significantly influences the health and vitality of the total community.

B. Area, Height And Face Standards: All billboards shall be constructed in accord with the Uniform Sign Code as set forth in this part and shall conform to the following standards:

1. Sign Area: New billboard faces and supporting framework shall not exceed the following sign areas:
  - a. New billboards shall be a maximum of two hundred forty five (245) square feet.
  - b. Replacement billboards, existing billboards four hundred (400) square feet or larger in face area may be replaced at a size up to four hundred (400) square feet; billboards with face areas between three



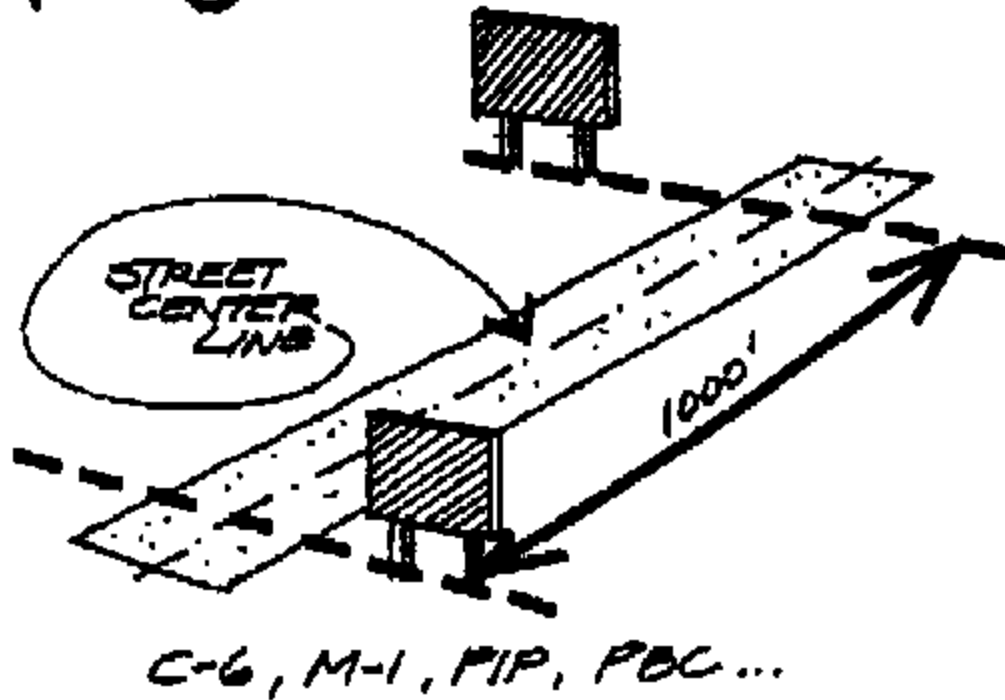
hundred ninety nine (399) and two hundred forty five (245) square feet shall be replaced at a size up to two hundred forty five (245) square feet. Existing billboards of less than two hundred forty five (245) square feet shall be restricted to their current size in the event they are relocated.

2. Height: Billboards shall not exceed the maximum height permitted for freestanding signs in the zone district in which they are located.
3. Faces: There shall be no more than two (2) billboard faces per supporting structure.

C. Location Standards: All billboards shall be located in accord with the following standards:

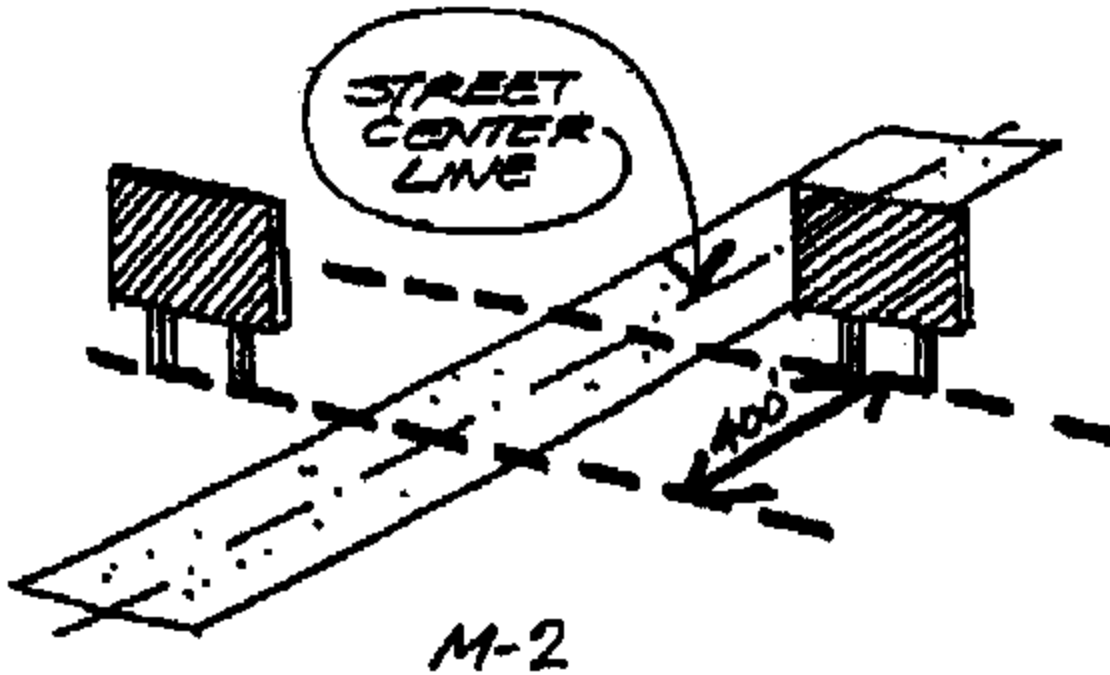
1. Zones: Billboards shall be allowed as conditional uses in the following zones: C-6, M-1, M-2 and PIP-2.
2. Conditional Uses: All new billboards shall be required to obtain a conditional use approval in accord with article 5, part 7 of this chapter.
3. Location Standards:
  - a. Billboards shall be set back the same distance required for freestanding signs in the zone district in which they are located.
  - b. No billboard shall be placed on the roof of any building or structure.
  - c. No billboard shall cantilever over any building or structure.
4. Spacing Standards:
  - a. No billboards shall be spaced less than one thousand feet (1,000') from the nearest billboard, except billboards in M-2 zones shall be spaced no less than four hundred feet (400') from the nearest billboard. In determining the physical spacing of billboards, the City will consider existing billboards and approved conditional use billboard locations.

# Spacing Standards



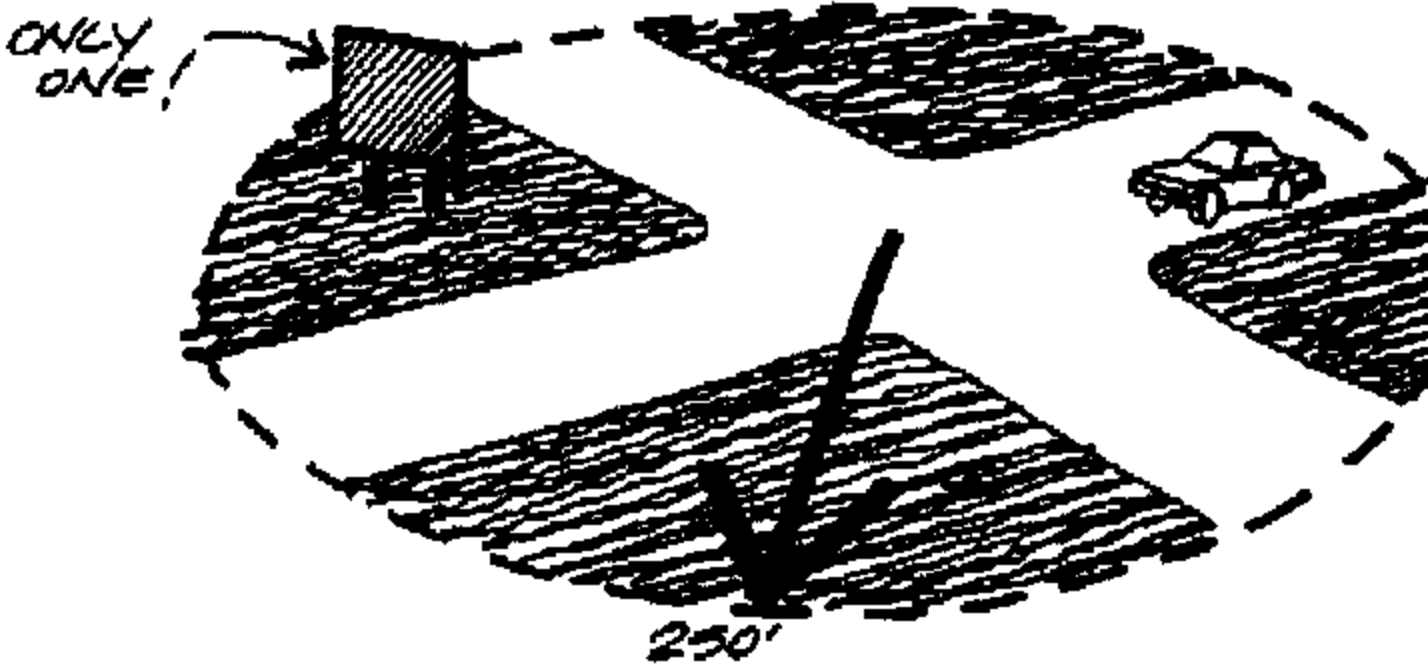
- b. Distances between billboards shall be measured horizontally along the centerline of the street or highway to which the sign is directed as set forth in following picture:

# Spacing Standards



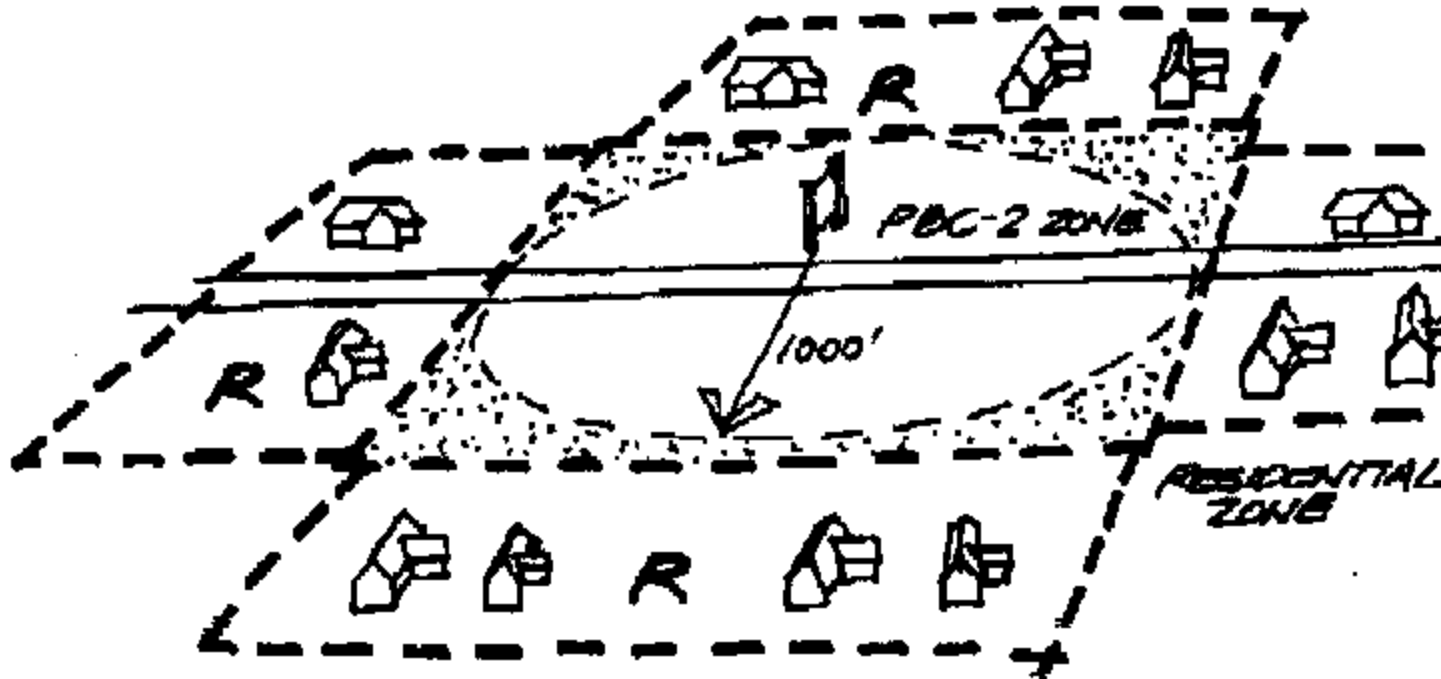
- c. Only one billboard shall be placed within a radius of two hundred fifty feet (250') from the center point of any street or highway intersection as set forth in following picture:

# Spacing Standards



d. No billboard shall be placed within five hundred feet (500') of any residential zone as set forth in following picture:

# Spacing Standards



## 5. Railroad Rights Of Way:

- a. New billboards shall not be allowed to be placed within any railroad rights of way.
- b. Existing billboards within a railroad right of way shall be grandfathered and allowed to remain in their current locations with the exception of the billboard located south of and adjacent to Woodman Road which may remain until March 13, 2000, at which time it shall be removed.

## D. Maintenance And Discontinuance:

1. Maintenance: All sign supports, braces, guys and anchors, shall be kept in good repair. Faces of all signs shall be kept neatly painted or posted at all times. The City shall notify the sign owner or its agent, of any sign which is not in proper state of repair. If corrective action is not taken within thirty (30) days, the City official may order the removal of the sign.
2. Discontinuance: The City may order the removal of any billboard, without compensation, upon which the advertising or other message has been discontinued for more than sixty (60) continuous days. The billboard shall be removed by the owner within thirty (30) days of notification by the City.

E. Billboard Credit: Permits to erect new billboards shall only be issued to those persons possessing a "billboard credit".

1. Billboard Credit: Billboard credits shall be issued by the City to those billboard owners who have removed a previously existing, lawfully erected billboard after the effective date hereof. It will be the responsibility of the permit applicant to show the ownership, location and date of removal of the billboard.
2. Credit Basis: Billboard credits shall be issued on a per face and per structure basis. One credit shall be issued for each billboard face removed and one credit for each structure removed. If a billboard is not located upon a separate supporting structure, the building or other structure to which the billboard is attached shall constitute a single structure for the purpose of receiving one credit.
  - a. No credit shall be granted for the partial removal of faces.
  - b. No credit shall be granted for the removal of billboard faces which are less than eighty four (84) square feet.
3. Credit Utilization: A billboard credit may only be used in a location which meets all standards of this Zoning Code.
4. Transfer Of Credits: Credits may be transferred between parties through legal means.
5. Size: Credits will allow billboards to be reconstructed in the following sizes:
  - a. A credit for a new four hundred (400) square foot billboard will be issued for billboards which are removed that are in excess of three hundred ninety nine (399) square feet.
  - b. A credit for a new two hundred forty five (245) square foot billboard will be issued for billboards which are removed that are between two hundred forty five (245) and three hundred ninety nine (399) square feet.
  - c. A credit will be issued for a new billboard of equal size for billboards which are removed that are less than two hundred forty five (245) square feet.

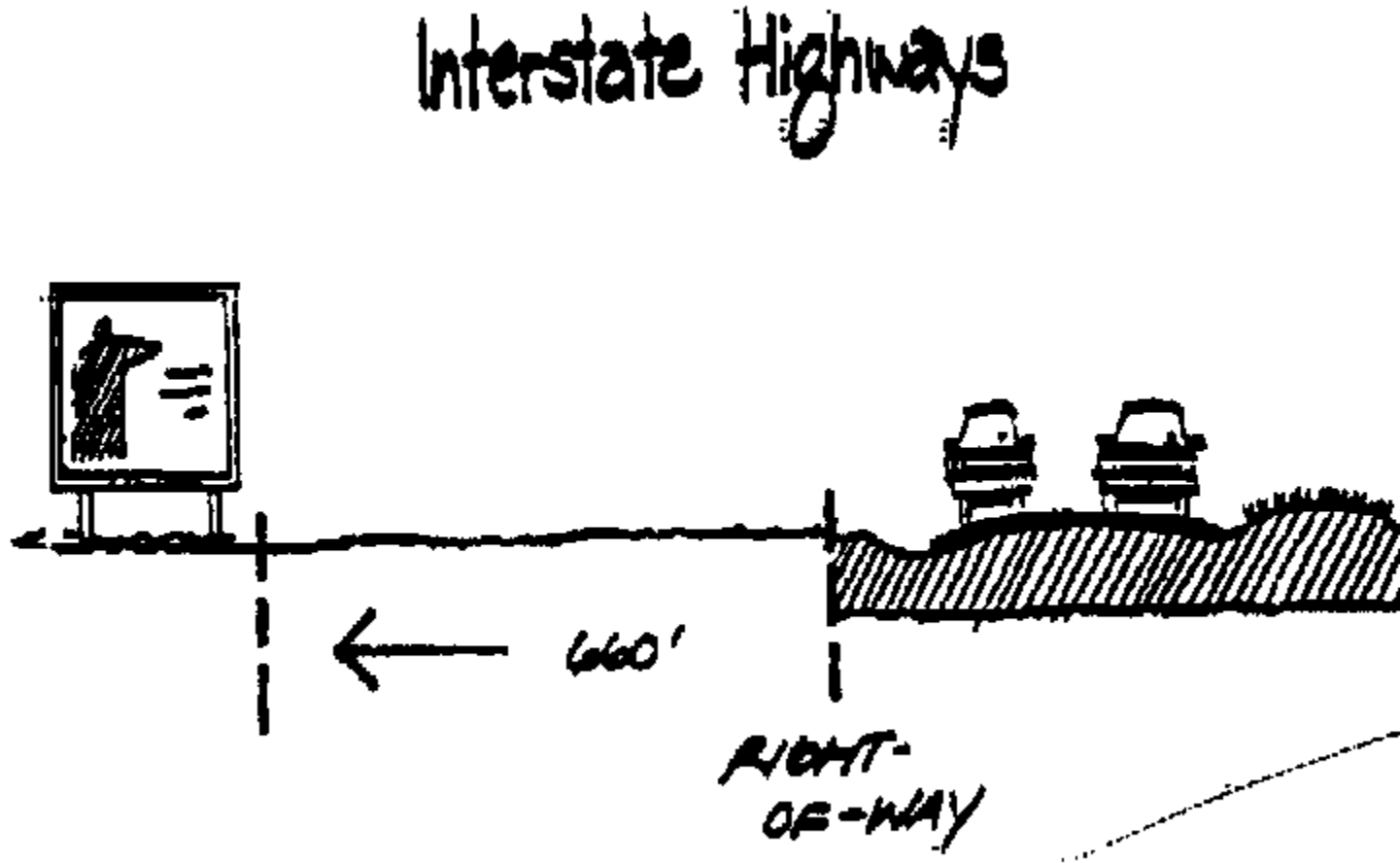
F. Removal From Downtown Core: All existing billboards shall be removed from the downtown core within sixty (60) days of the passage of this part. No compensation will be paid by the City to the billboard owners for the removal of these billboards under mutual consent; however, credit under this section shall be issued allowing each billboard removed to be relocated to a new location which meets all standards of this Code. No new billboards shall be allowed within the downtown core. See following map:



DOWNTOWN CORE

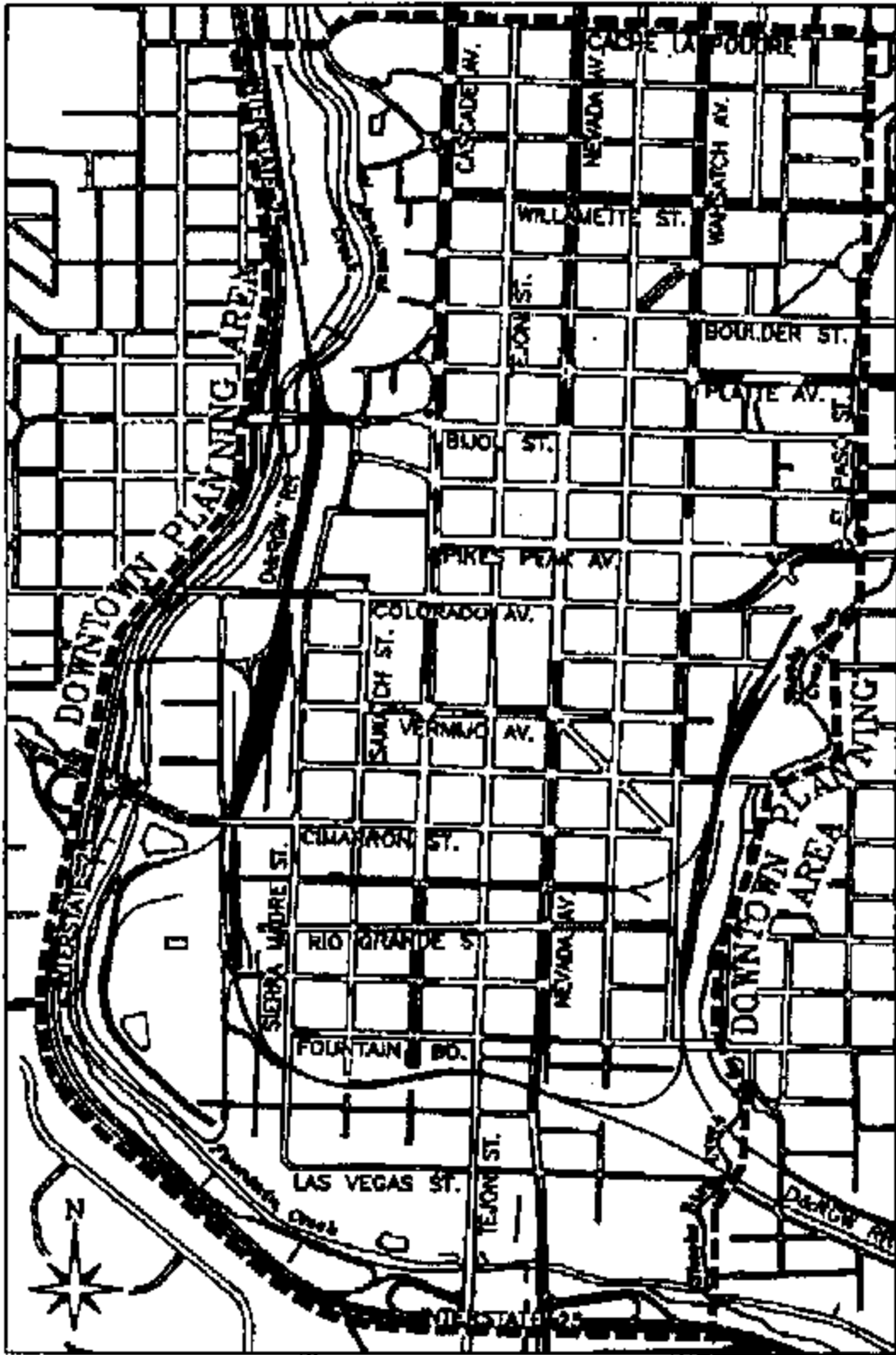
G. Downsizing:

1. Restricted Corridors: All existing billboards which are directed toward and visible from and within six hundred sixty feet (660') of Interstate 25, Highway 24, Highway 24 bypass and airport entryway (Powers Boulevard between Fountain Boulevard and Milton Proby Parkway, Airport Entrance Road between Powers Boulevard and the airport terminal) corridors shall be downsized as follows:



- a. Billboards larger than four hundred (400) square feet in face area to four hundred (400) square feet by December 31, 1996.
  - b. Billboards containing between two hundred forty five (245) and three hundred ninety nine (399) square feet in face area to two hundred forty five (245) square feet by December 31, 1996.
2. Downtown Planning Area: All existing billboards within the downtown planning area as illustrated in the following map shall be downsized as follows:





DOWNTOWN PLANNING AREA

- a. Billboards larger than four hundred (400) square feet in face area to four hundred (400) square feet by December 31, 1996.
- b. Billboards containing between two hundred forty five (245) and three hundred ninety nine (399) square feet in face area to two hundred forty five (245) square feet by December 31, 1996.
3. Nonrestricted Areas: All existing billboards, in areas other than the restricted corridors or downtown planning area, shall be downsized as follows:
  - a. Billboards larger than four hundred (400) square feet in face area to four hundred (400) square feet by December 31, 1996.
  - b. Billboards containing between two hundred forty five (245) and three hundred ninety nine (399) square feet in face area to two hundred forty five (245) square feet by December 31, 1996.
  - c. Billboards less than two hundred forty five (245) square feet are not required to be downsized.

#### H. Cap On Number Of Billboards:

1. Restricted Corridors And Downtown Planning Area: There shall be a cap on the number of billboards within the restricted corridors or Interstate 25, Highway 24, Highway 24 bypass, Powers Boulevard (between Fountain Boulevard and Milton Proby Parkway) and the airport entrance road (between Powers Boulevard and the airport terminal) as well as within the downtown planning area (map shown above). No new billboards shall be allowed within these areas except with the removal of an existing billboard from the same corridor/area. Permits for new billboards within the restricted corridors or downtown planning area will only be issued to those persons possessing a "billboard credit" indicating they have removed a billboard from the same corridor or downtown planning area. All new billboards within restricted corridors or the downtown planning area shall comply with the design standards as set forth in this section.
2. Citywide Cap: There shall be a limit of two hundred eight (208) total billboard locations within the corporate limits.

#### I. Exemptions: This section shall not pertain to the following types of off premises signs:

1. State approved signs within Colorado State highway rights of way.
2. Signs approved by the revocable permit process as set forth in chapter 3, article 2, part 2 of this Code.
3. Off premises temporary signs which comply with the provisions of subsection [7.4.409F](#) of this part.
4. Signs announcing a "special event" as defined in section [3.2.403](#) of this Code.

#### J. General Provisions: All billboards are subject to the applicable provisions for signs as set forth in this section, except section [7.4.413](#) of this part shall not apply. All billboards are subject to the provisions set forth in article 5, part 12 of this chapter except where any provision of this part

imposes a more specific requirement than imposed by article 5, part 12 of this chapter, then that specific requirement shall govern. (Ord. 12-15)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): Prior ordinance history: Ord. 84-28; Ord. 85-43; Ord. 88-154; Ord. 91-16; Ord. 91-30; Ord. 92-163; Ord. 94-23; Ord. 94-107; Ord. 94-198; Ord. 96-79; Ord. 96-98; Ord. 01-42; Ord. 03-157; Ord. 06-120; Ord. 09-50; Ord. 09-58; Ord. 09-80; Ord. 10-66.

## **PART 5 GEOLOGICAL HAZARD STUDY AND MITIGATION**

[7.4.501: PURPOSE:](#)

[7.4.502: APPLICABILITY:](#)

[7.4.503: EXEMPTIONS AND WAIVERS:](#)

[7.4.504: PREPARATION OF GEOLOGIC STUDIES AND REPORT GUIDELINES:](#)

[7.4.505: SCOPE OF STUDY:](#)

[7.4.506: REVIEW OF GEOLOGIC HAZARD STUDIES:](#)

[7.4.507: DISCLOSURE STATEMENT:](#)

**7.4.501: PURPOSE:**  

The purpose of this part is to identify geologic conditions, which may pose hazards to a land development project in order that appropriate mitigation or avoidance techniques may be implemented. The types of geologic hazards to be identified shall include, but not be limited to, the following:

- A. Expansive soils and expansive rock;
- B. Unstable or potentially unstable slopes;
- C. Landslide areas or potential landslide areas;
- D. Debris flow and debris fans;
- E. Rockfall;
- F. Subsidence and abandoned mining activity;

G. Shallow water tables;

H. Groundwater springs;

I. Flood prone areas;

J. Collapsible soils;

K. Faults;

L. Landfills and areas of uncontrolled and undocumented fill; and

M. Steeply dipping bedrock. (Ord. 96-74; Ord. 01-42; Ord. 11-72)

**7.4.502: APPLICABILITY:**   

A. A geologic hazard study shall be required in conjunction with the City's review of the following type of land development proposals unless otherwise exempted or waived:

1. New or updated master plans.
  2. In conjunction with rezoning requests when determined to be necessary by the Manager, City Engineer, Planning Commission or City Council.
  3. Preliminary plats.
  4. Final plats. A geologic hazard study is required if no report was reviewed in conjunction with the preliminary plat or development plan. Not required for replats of previous subdivisions in which buildings exist on each of the proposed lots, and no new structures (not including fences) or new building sites are being created. Manager may allow the study to be delayed until the submittal of a development plan. This option may be used where a final subdivision plat is submitted prior to the submittal of a development plan.
  5. Development plans (including expired development plans which are being reconsidered). A geologic hazard study is required if no report was previously reviewed in conjunction with the plat or development plan. Not required for development plans in which no building, nor additions to an existing building is proposed.
  6. Public improvement construction drawings.
- B. The Manager may request a site specific geologic hazard study in conjunction with a building permit for a new, reconstruction or an expansion of the building footprint of more than fifty

percent (50%) of a single-family or duplex building where no previous geologic hazard study has been reviewed by the City as part of the master plan, zone change, development plan, preliminary plat or final plat. (Ord. 96-74; Ord. 99-166; Ord. 01-42; Ord. 09-78; Ord. 11-72; Ord. 17-26)

#### **7.4.503: EXEMPTIONS AND WAIVERS:**

A. Exempt Lands: Those lands lying east of Interstate Highway 25 are presumed to be exempted from the requirements of this part unless the owner, applicant or City staff is aware of the existence of any of the following characteristics on the property:

1. Land lying within the hillside area (HS) overlay zone or the streamside (SS) overlay zone or with a 100-year floodplain or any Potential Landslide Susceptibility and Mine Subsidence map published by the Colorado Geological Survey.
2. Slopes (existing or proposed) exceeding thirty three percent (33%) or which are otherwise unstable or potentially unstable.
3. Underground mining or subsidence activity.
4. A history of a landfill or uncontrolled or undocumented fill activity.
5. Other geologic hazards which pose a risk to the proposed project, other than seismicity, radiation (radon), compressible soils, shallow water table or springs, expansive soils or expansive bedrock which can be mitigated with standard foundation design/construction practices.

B. Waivers: The Manager, in consultation with written approval of the City Engineer, may waive the requirement for the submittal of a geological hazard study on a property that is not otherwise excluded or exempted from the provisions of this part for the following:

1. Master plans, development plans or subdivision plats for which geologic hazard reports have been previously prepared and reviewed and which are still considered to be relevant.
2. Development proposals located west of Interstate Highway 25 which exhibit none of the characteristics listed within subsections A2 through A4 of this section.

C. Waiver Request: To obtain a waiver, the applicant shall submit a waiver request, which states the project meets the above noted criteria, and is prepared by a professional geologist or geotechnical engineer, who is qualified in accord with section [7.4.504](#) of this part. (Ord. 96-74; Ord. 01-42; Ord. 11-72; Ord. 17-26)

#### **7.4.504: PREPARATION OF GEOLOGIC STUDIES AND REPORT GUIDELINES:**

In accord with applicable professional and legal standards, geologic hazard studies shall be prepared by, or under the direction of, a professional geologist as defined by Colorado Revised Statutes section 34-1-201(3) or by a qualified Professional (geotechnical) Engineer licensed by the Colorado State Board of Registration for Professional Engineers and Professional Land Surveyors

and subject to Board Policy Statement 50.2, "Engineering in Natural Hazards Areas". Geologic hazard studies shall be signed by the professional geologist and/or by the Professional (geotechnical) Engineer who prepared or certified the study. The detailed guidelines, criteria, policies and requirements for preparation, submittal and review of a geologic hazard study are found in the City Engineering Criteria Manual/Subdivision Policy Manual. (Ord. 96-74; Ord. 01-42; Ord. 11-72; Ord. 17-26)

#### **7.4.505: SCOPE OF STUDY:**

A. In general the geological hazard study shall be of sufficient detail and scope to:

1. Identify the geologic hazards affecting the development site;
2. Analyze the potential negative impacts the geologic hazards will have upon the proposed project;
3. Provide mitigation techniques, which will reduce to acceptable standards the risk posed to the development by any identified geologic hazards;
4. Analyze potential impacts the proposed project will have on surrounding properties or public facilities related to existing geologic hazards; and
5. Provide recommendations to be incorporated into the proposed project which mitigate significant potential impacts to surrounding properties or public facilities.

B. The conclusions and recommendations of the study shall be based upon:

1. Site Specific Subsurface Investigations: This is not required for master plan level studies;
2. Site Reconnaissance: Site reconnaissance to identify the geologic features of the site and surrounding property;
3. Previous Geologic Reports: Review of previous geologic reports within close proximity to the subject site;
4. Geologic Mapping: Review of past geologic mapping in the area; and
5. Experience Of Geologist: Conclusions drawn from the experience of the reviewing geologist. (Ord. 96-74; Ord. 01-42; Ord. 17-26)

#### **7.4.506: REVIEW OF GEOLOGIC HAZARD STUDIES:**

A. Geologic Hazard Studies: Geologic hazard studies will be reviewed by staff in conjunction with the City's normal review of the land development proposal. If the review by the City determines that the study submitted is incomplete or fails to comply with the guidelines set forth in this section, the study may be rejected and a new or supplemental study may be required. The City's review shall determine whether the findings, conclusions and recommendations of the geological hazard study have been incorporated into the design of the development plan, subdivision plat, drainage plan, grading plan, street construction documents and other public improvement construction drawings. In cases where significant geologic hazards are identified, appropriate

mitigation measures shall be required in conjunction with the approval of the project. Said mitigation measures shall include, but not be limited to:

1. Changes to the proposed land use configuration;
2. Modification of land use types;
3. Modification of lot boundaries or building envelopes;
4. Special foundation designs;
5. Geotechnical engineering solutions;
6. Limitations on irrigated landscape designs; and
7. Special drainage designs.

B. Independent Review: City staff, Planning Commission or City Council may, at their discretion, have geologic hazard studies independently reviewed by the Colorado Geological Survey (CGS) or by an independent professional geologist or qualified geotechnical consultant. This separate discretionary review shall be completed within a twenty one (21) working day time frame, shall supplement the City's review and will be considered by the City in making a final recommendation or determination on the land development proposal application.

C. Consultant Review/Analysis Panel: Prior to Planning Commission consideration or final administrative decision, an applicant may request access to the consultant review/analysis panel. Applicant's request shall be in writing and shall specify the issue(s) raised by discretionary review or staff recommendation with which the applicant disagrees. Applicant's request must be filed within ten (10) days of the date of either discretionary review or staff recommendation, whichever is later.

The panel shall consist of three (3) members who may be either professional geologists or geotechnical engineers, or qualified Colorado Licensed Professional Engineers selected by the Manager who shall conduct a thorough evaluation of the geologic hazard study or discretionary review and may conduct site visits or request additional testing. The panel's findings shall be included in staff's recommendation on the application. The Manager may establish policies and procedures for panel review. The cost of the panel shall be borne by the applicant.

D. Incorporation Of Recommendations: Recommendations of the geologic hazard study shall be incorporated, as applicable, into the approval of a master plan, concept plan, development plan, public improvement construction drawings, and building construction plans.

E. Geologic Hazard Study Review: At the discretion of the Manager, and concurrent with other City reviews, a copy of a final geologic hazard study and its related master plan, concept plan, development plan, preliminary plat, final plat or residential site plan may be provided for review to Colorado Geological Survey, or an independent professional geologist, or a qualified geotechnical engineer, with an anticipated response to the City within fourteen (14) days. If the

City does not receive a response to the final geologic hazard study review within fourteen (14) days of submission, the City shall have the authority to process any approvals or denials of the associated plan or plat.

F. Improvement Location Certificate: For any single-family or duplex land development proposal subject to a geologic hazard study, the applicant shall submit to the Manager an improvement location certificate prior to the issuance of a certificate of occupancy by the Regional Building Official. The improvement location certificate shall be prepared pursuant to the requirements set forth in section 38-51-108 of the Colorado Revised Statutes. The Regional Building Official shall not issue a certificate of occupancy until the manager reviews the improvement location certificate for conformance with the City approved land development proposal and site plan. (Ord. 96-74; Ord. 99-166; Ord. 01-42; Ord. 09-80; Ord. 11-72; Ord. 17-26)

#### **7.4.507: DISCLOSURE STATEMENT:**

The following disclosure statement shall be placed upon each subdivision plat and development plan, which is subject to a geologic hazard study:

*This property is subject to the findings summary and conclusions of a Geologic Hazard Report prepared by dated , which identified the following specific geologic hazard on the property: . A copy of said report has been placed within file #, or within the subdivision file of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development Team, 30 South Nevada Avenue, Suite 105, Colorado Springs, CO, if you would like to review said report.*

(Ord. 96-74; Ord. 99-166; Ord. 01-42; Ord. 09-80; Ord. 11-72; Ord. 17-26)

## **PART 6 COMMERCIAL MOBILE RADIO SERVICE (CMRS) REGULATIONS**

### **7.4.601: PURPOSE:**

### **7.4.602: APPLICABILITY:**

### **7.4.603: ZONES ALLOWED:**

### **7.4.604: PROCESSING OF CMRS APPLICATIONS:**

### **7.4.605: SUBMITTAL REQUIREMENTS:**

### **7.4.606: HEIGHT AND SETBACK STANDARDS:**

### **7.4.607: SITE SELECTION AND COLLOCATION REQUIREMENTS:**

### **7.4.608: DESIGN CRITERIA AND CONSTRUCTION STANDARDS:**

### **7.4.609: DISCONTINUANCE:**

#### **7.4.601: PURPOSE:**

The purpose of this part is to set forth a regulatory framework in which low power telecommunication facilities may be constructed or located within Colorado Springs without substantially adversely



impacting the visual integrity of the City, its neighborhoods and important view corridors. In order to achieve this objective these regulations seek to encourage the use of wall or roof mounted CMRS facilities which are designed to blend in the architecture of their host buildings, as well as the use of stealth freestanding facilities in which the antennas and associated equipment are concealed or camouflaged. This chapter advocates the use of nonstealth freestanding CMRS facilities only when the carrier has reasonably explored the use of wall, roof or stealth facilities within the search area and determined that said facilities are not feasible or appropriate. These regulations also strive to provide the public an opportunity to comment on the visual impact and land use compatibility of all proposed CMRS facilities. (Ord. 01-42)

#### **7.4.602: APPLICABILITY:**

A. Exemption: Noncommercial radio telemetry equipment and towers owned and operated by government owned utilities are exempt from these regulations as long as the freestanding facilities do not exceed the maximum height of the zone district in which they are located. Noncommercial radio telemetry equipment and towers which exceed the maximum height of the zone district in which they are located shall be reviewed as nonstealth freestanding facilities in accord with section [7.4.604](#) of this part.

B. CMRS Facilities And Wireless Broadband Antennas And Facilities Constructed On Existing Utility Infrastructure Or Within The Public Right Of Way Or Easements:

1. CMRS facilities and wireless broadband antennas and facilities attached to existing utility infrastructure (i.e., streetlight standards, water tanks, existing towers, and utility poles) located within Municipal or utility owned property, the public right of way or within utility easements are exempt from these regulations so long as the following requirements are met:

- a. The controlling agency or utility owning the vertical infrastructure approves the use.
- b. The CMRS or wireless broadband antennas do not exceed the height of the existing utility infrastructure on which it is mounted by more than four feet (4').
- c. A revocable permit is obtained for any ground mounted equipment or buildings that are located within a City right of way.
- d. An avigation easement may be required if the location of the CMRS facility is within the airport overlay district.

A CMRS or wireless broadband antenna that exceeds the height of the existing utility infrastructure on which it is mounted by more than four feet (4') shall be processed as a nonstealth freestanding facility in accord with section [7.4.604](#) of this part.

2. New stealth freestanding CMRS facilities may be constructed within public rights of way or utility easements provided the following conditions are met:

- a. The CMRS facility visually resembles other vertical utility infrastructure along the same streetscape.
- b. The CMRS facility does not exceed the height of other vertical utility infrastructure in the same streetscape by more than four feet (4').

- c. A revocable permit is obtained for any ground mounted equipment or buildings that are located within a City right of way.
- d. An avigation easement may be required if the location of the CMRS facility is within the airport overlay district.

Stealth freestanding CMRS facilities that exceed the height of other vertical utility infrastructure along the same streetscape by more than four feet (4') or that do not meet the definition of a stealth freestanding facility in accord with section [7.4.608](#) of this part shall be processed as nonstealth freestanding facilities in accord with section [7.4.604](#) of this part.

All installations shall meet or exceed National Electrical Safety Code clearances.

No public notice shall be required for CMRS facilities or wireless broadband antennas or facilities placed on existing utility infrastructure or within the public right of way or within utility easements unless determined necessary by the controlling agency or utility or as part of a required City revocable permit.

#### C. Wireless Broadband Antennas And Facilities:

1. Wireless broadband antennas and facilities are exempt from these regulations and may be mounted on the wall of an existing building provided the following conditions are met:
  - a. The antenna is no more than four (4) square feet.
  - b. The antenna or facility matches the color of the building.
  - c. There are no more than a total of two (2) wireless broadband antennas per elevation of the building.
  - d. Wall mounted antennas do not exceed the height of the existing building or associated roof equipment by more than four feet (4').
  - e. No ground based equipment or buildings are proposed.
2. Wireless broadband antennas and facilities are exempt from these regulations and may be mounted on the roof of an existing building provided the following conditions are met:
  - a. The antenna is no more than eight and one-half (8.5) square feet in area.
  - b. Roof mounted antennas do not exceed the height of the existing building by more than ten feet (10').
  - c. The antenna and facility match the color of the building.
  - d. There are no more than a total of two (2) wireless broadband antennas on the roof of the building.
  - e. No rooftop equipment buildings are proposed.

If the above criteria are not met, the wireless broadband antennas and facilities shall be processed as wall or roof mounted facilities in accord with section [7.4.604](#) of this part. Towers associated with

wireless broadband or other similar wireless technology shall be processed as a freestanding facility in accord with section [7.4.604](#) of this part. (Ord. 06-162; Ord. 09-75; Ord. 12-76)

**7.4.603: ZONES ALLOWED:**  

CMRS facilities are allowed in the following zones as a principal permitted use (subject to development plan approval) where indicated by a "P" and as a conditional use (subject to Planning Commission approval) where indicated by a "C". Specific requirements for CMRS facilities may be included as a part of an FBZ regulating plan.

**RESIDENTIAL ZONES**

Type Of Facility	A	R	R-1 9000	R-1 6000	R- 2	R- 4	R- 5	PUD	SU	TND
Nonstealth freestanding facility <sup>2</sup>	C	C	C	C	C	C	C	C	C	C
Roof/building mount on multi-family, institutional or nonresidential buildings	P	P	P	P	P	P	P	P	P	P
Roof/building mount on single- and two-family buildings <sup>1</sup>	C	C	C	C	C	C	C	C	C	C
Stealth freestanding facility <sup>2</sup>	P	P	P	P	P	P	P	P	P	P

**Notes:**

1. Roof/building mount on single- and two-family buildings shall only be permitted as a conditional use where the design, materials, color and location of the facilities blend in architecturally with the building and substantially conceals the CMRS antennas and equipment.
2. Within residential zones, applications for freestanding facilities (stealth or nonstealth) shall only be considered for multi-family, institutional, or nonresidential sites such as churches, schools, museums, etc. Freestanding facilities are not permitted in conjunction with a single- or two-family building.

**MIXED USE, COMMERCIAL AND INDUSTRIAL ZONES**

Type Of Facility	O R, M U- N C	O C	PB C	C - 5	C - 6	PI P- 1	MU - CC , MU - R/E C	PI P- 2	M - 1	M - 2	P F	P K	PC R	AP D	PU D	TN D
Broadc asting tower	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
Nonste alth freesta nding facility	C	C	C	C	C	C	C	C	C	C	P	C	C	P	C	C
Roof/b uilding mount	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Roof/b uilding mount which exceed s height limit	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Stealth freesta nding facility	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C

(Ord. 99-121; Ord. 01-42; Ord. 02-153; Ord. 03-110; Ord. 03-157; Ord. 06-162; Ord. 09-50)

**7.4.604: PROCESSING OF CMRS APPLICATIONS:**  

Type Of Facility	Application
Residential zones:	

	Nonstealth freestanding facility <sup>6</sup>	CM1 <sup>3</sup>
	Roof/building mount <sup>1</sup> :	
	Less than 10 feet above roofline <sup>2</sup>	CM3 <sup>5</sup>
	More than 10 feet above roofline and less than maximum height of zone	CM2 <sup>4</sup>
	More than 10 feet above roofline and exceeding maximum height of zone <sup>3</sup>	CM1 <sup>3</sup>
	Located on single- and two-family dwelling units	CM1 <sup>3</sup>
	Stealth freestanding facility <sup>6</sup> :	
	Less than maximum height of zone	CM2 <sup>4</sup>
	Exceeding maximum height of zone	CM1 <sup>3</sup>
	Nonresidential zones:	
	Broadcasting tower	CM1 <sup>3</sup>
	Collocation on existing facility <sup>9</sup>	CM3 <sup>5</sup>
	Nonstealth freestanding facility <sup>7</sup>	CM1 <sup>3</sup>
	Roof/building mount:	
	Less than 10 feet above roofline <sup>2</sup>	CM3 <sup>5</sup>
	More than 10 feet above roofline and less than maximum height of zone	CM2 <sup>4</sup>
	More than 10 feet above roofline and more than maximum height of zone	CM1 <sup>3</sup>
	Stealth freestanding facility <sup>8</sup> :	
	Less than maximum height of zone	CM2 <sup>4</sup>
	Exceeding maximum height of zone	CM1 <sup>3</sup>
	Located within substations, public right of way, or within utility easements and exceeding the height of other vertical infrastructure by more than 4 feet	CM1 <sup>3</sup>

Notes:

1. Roof/building mount on single- and two-family buildings shall only be permitted as a conditional use where the design, materials, color and location of the facilities blend in architecturally with the building and substantially conceals the CMRS antennas and equipment.
2. The 10 foot extension above the building is allowed to exceed the maximum height limitation of the zone district.
3. CMRS conditional use (CM1) applications shall be subject to Planning Commission review as a conditional use in accordance with article 5, part 7 of this chapter and the findings of this article and shall notify all property owners and neighborhood organizations located within a 1,000 foot radius from the proposed CMRS facility.
4. CMRS development plan (CM2) applications shall be subject to administrative review in accordance with the development plan application and review procedures of article 5, part 5 of this chapter and the findings of this article and reviewing planner shall notify all property owners and neighborhood organizations.
5. CMRS development plan (CM3) applications shall be subject to expedited administrative review in accordance with the development plan application and review procedures of article 5, part 5 of this chapter and the findings of this article. No public notice or site posting shall be required unless determined to be necessary by the reviewing planner.
6. Within residential zones, applications for freestanding facilities (stealth and nonstealth) shall only be considered on multi-family, institutional, or nonresidential sites such as churches, schools, museums, etc. Freestanding facilities are not permitted in conjunction with a single- or two-family building.
7. In the PF and the APD zone, a nonstealth freestanding facility requires a CM2 development plan application.
8. In the OR or MU-NC zone, a stealth freestanding facility requires a CM1 conditional use application.
9. The collocation height shall be restricted to the maximum height of the zone district. If the height exceeds the maximum height of the zone district, a CM1 conditional use application shall be required.

(Ord. 06-162; Ord. 12-76)

**7.4.605: SUBMITTAL REQUIREMENTS:**  

A. Applications for wall or roof mounted facilities, or to place additional antennas on existing freestanding facilities, shall provide the information required on the City's development plan application form, as well as the following:

1. A project statement identifying the proposed CMRS facility and the telecommunication service to be provided by the proposed facility.
2. A photo simulation which illustrates "before" and "after" what the building and/or site will look like once the antennas and associated BTS (base transmitter site) equipment have been installed. The photos should be taken from the adjoining public street and from any adjacent residential zoning from which the antennas and equipment will be visible.
3. Elevation drawings for each side of the building from which the wall or roof mounted equipment will be visible, as well as any BTS equipment. The drawings should indicate the appearance, color and material of the existing building as well as the location, height, color and material proposed for the antennas and associated equipment.

4. A rooftop plan, which indicates the location and height for any roof mounted antennas or BTS equipment.
5. A site plan shall be required if the proposal includes a ground based BTS equipment building. The plan shall illustrate all existing freestanding facilities, buildings, parking, easements and landscaping existing on the site as well as any proposed BTS or CMRS facilities, landscaping, screening or security fencing.
6. A geologic hazard report or exemption per part 5 of this article shall be required if a BTS equipment building is proposed.
7. The legal description of the subject property shall be required to be a platted lot in accord with the Subdivision Code if the proposal includes a ground based equipment building which is in excess of one hundred twenty (120) square feet in gross floor area.

B. Applications for stealth and nonstealth freestanding facilities shall provide the information required on the City's development plan application form, as well as the following:

1. A project statement identifying the proposed CMRS facility and the telecommunication service to be provided by the proposed facility.
2. An indication as to whether the facility is designed to accommodate the equipment of additional carriers. Each application for a CMRS facility shall be accompanied by a statement from the building/property owner indicating that they consent to the placement of the CMRS facility on the site and information which indicates that the lease does not preclude collocation.
3. If a new freestanding facility is proposed, evidence that the carrier has reasonably explored the use of wall, roof or stealth facilities within the search area and determined that said facilities are not feasible or appropriate and justification of the need for the proposed tower and height requested.
4. A photo simulation, which illustrates "before" and "after" what the site will look like once the freestanding facility and BTS equipment have been constructed. The photos should be taken from the adjoining public street and from any adjacent residential zoning from which the freestanding facility will be visible.
5. Elevation drawings shall include the freestanding facility, as well as any BTS equipment. The drawings should indicate the appearance, height, color and material proposed for the freestanding facility, antennas and associated equipment.
6. The legal description of the subject property shall be a platted lot in accord with article 7, part 14 of this chapter.
7. A geologic hazard report or exemption per part 5 of this article shall be required where one has not been previously approved.
8. A development plan shall be required for all freestanding facilities. The plan shall illustrate all existing buildings, parking, easements and landscaping existing on the site as well as any proposed CMRS facility locations, landscaping, screening or security fencing. (Ord. 99-121; Ord. 01-42; Ord. 06-162)

**7.4.606: HEIGHT AND SETBACK STANDARDS:**  

A. Height Standards:

1. Freestanding CMRS facilities shall not exceed the maximum height of the zone district in which they are located unless a conditional use has been approved in accord with article 5, part 7 of this chapter and the findings of this article authorizing a greater height.
2. Roof mounted antennas, support structures and screening devices shall not exceed the highest point of the building upon which they are mounted by more than ten feet (10'). The ten foot (10') extension above the building is allowed to exceed the maximum height limitation of the zone district. Whip type antennas may exceed the height of the zone by a maximum of fifteen feet (15').
3. Roof mounted BTS cabinets or BTS equipment buildings may exceed the height of the building upon which they are located by a maximum of fifteen feet (15'), however, in no case shall equipment or equipment buildings exceed the maximum height of the zone district in which they are located, unless a conditional use has been approved in accord with article 5, part 7 of this chapter authorizing a greater height.

B. Setback Standards:

1. Freestanding CMRS facilities shall be located no closer than a distance equal to five (5) times their height from property which is zoned R estate, R-1 9000, R-1 6000, R-2 or which is zoned R-4, R-5, PUD, or TND and used for single-family purposes, or which is not zoned residential but is within an area which is predominantly used for single-family purposes, unless a conditional use has been approved in accord with article 5, part 7 of this chapter authorizing a lesser setback. This setback shall not apply to multi-family projects, which are located in a zone, which also allows single-family uses. Said distance shall be measured in a straight line from the property line of the residential property to the proposed tower location. Stealth facilities are exempted from this setback requirement.
2. Freestanding CMRS facilities shall comply with the side and rear yard setback requirements for principal structures of the zone districts in which they are located or the setback shall be twenty percent (20%) of the height of the antenna support structure and associated equipment, whichever is greater.
3. The front yard setback for freestanding CMRS facilities from property lines adjacent to public or private streets shall be a distance equal to the height of the freestanding facility.
4. Wall mounted antennas may encroach into required setbacks a maximum of thirty inches (30"), but shall not extend across property lines.
5. Ground based equipment and equipment shelter buildings shall comply with the setback requirements for accessory structures for the zone district in which they are located.
6. CMRS facilities, which are located on City or Colorado Springs Utility property, rights of way or easements, are exempted from these setback requirements. (Ord. 99-121; Ord. 01-42; Ord. 02-153; Ord. 06-162; Ord. 12-76)

**7.4.607: SITE SELECTION AND COLLOCATION REQUIREMENTS:**  



A. Site Selection: Carriers shall consider the following types of sites as they select specific locations for CMRS facilities:

1. On existing structures such as buildings, water tanks, existing towers, signs, etc.
2. On City owned or Colorado Springs Utility (CSU) sites which have been identified as appropriate locations for CMRS facilities. Appropriate City and CSU sites are required to meet the following criteria:
  - a. The proposed CMRS facility will not have an adverse impact upon the operational or security requirements for the site.
  - b. The site can accommodate a CMRS facility in a manner which lessens the visual impact and increases the land use compatibility over privately held sites within the same vicinity.
3. In locations where the existing topography, vegetation, buildings or other structures provide the greatest screening potential.

B. Collocation Requirements:

1. These regulations seek to encourage the collocation of CMRS equipment of various carriers on the same structures where feasible and where the visual impact of having one taller facility is determined to be more desirable than having two (2) or more lower facilities constructed within the same vicinity.
2. The following note shall be included on all development plans:

*(Name of Applicant/Carrier) will consider co-location proposals from other commercial radio providers with an interest in this facility.*

(Ord. 99-121; Ord. 01-42; Ord. 06-162)

#### **7.4.608: DESIGN CRITERIA AND CONSTRUCTION STANDARDS:**

A. Wall And Roof Mounted Facilities:

1. The design, materials, color and location of these facilities shall be selected to achieve the architectural compatibility with the host building to which they are attached. The antennas and equipment shall blend in with the building to the maximum extent possible.
2. Roof mounted equipment which will be visible against the skyline shall be painted white, gray or some alternative light shade, which will allow it to blend with the sky background as viewed from adjoining streets and neighboring properties.
3. Wall mounted equipment shall be mounted as flush to the building as technically possible.
4. Installation shall meet or exceed National Electrical Safety Code clearances.

#### B. Stealth Freestanding Facilities:

1. "Stealth freestanding facilities" are freestanding CMRS facilities that are designed to substantially conceal and camouflage the antennas and associated equipment and are typified by bell towers, flagpoles, parking lot light poles, clock towers, decorative architectural features, tree towers, etc.
2. Stealth facilities are preferred and encouraged in instances where a freestanding facility is necessary and the potential for substantial adverse visual impact is high.
3. Facilities should be architecturally compatible with the adjacent buildings and land uses and integrated through design, materials, color, and location to blend in with the existing characteristics of the site to the maximum extent possible. The height, bulk and scale of a stealth CMRS facility should be compatible with the adjacent buildings and land uses.

C. Nonstealth Freestanding Facilities: Nonstealth freestanding CMRS facilities shall only be considered in locations in which adverse visual impacts are not a substantial concern due to the location of the facility and the nature of the surrounding land uses.

#### D. Ground Based Facilities:

1. Ground based equipment and buildings located on existing developed sites should be integrated into the overall landscape design for the project. The views of these facilities from adjoining public streets and properties should be screened and well landscaped. It is the responsibility of the applicant to ensure that all required landscaping is in place or financially secured with the City prior to operation of the CMRS facility.
2. Equipment shelters shall be painted or clad with materials that are compatible with adjacent structures on the site, on neighboring lots and the surrounding environment.
3. Fencing materials are to be compatible with fencing materials used in surrounding land uses and/or to blend with the surrounding environment.
4. Installation shall meet or exceed National Electrical Safety Code clearances.

E. Lighting: Security lighting, mounted on the building, ground or equipment, may be provided to the extent that it does not substantially adversely affect nearby properties. Artificial lighting mounted on antenna support structures shall be limited to mandatory safety lighting required by Federal regulation authorities possessing jurisdiction over communication structures.

F. Review And Approval Of Airport Advisory Commission: Any requests for approval of roof mounted or freestanding CMRS facilities in the AO overlay zone will be subject to review and approval of the Airport Advisory Commission in order to assess hazards to aviation safety.

G. Review And Approval Of Military Installations: Any requests for approval of roof mounted or freestanding CMRS facilities within a two (2) mile radius of a military installation will be subject to

review and approval of the military installation in order to assess hazards to aviation safety. (Ord. 06-162; Ord. 09-70; Ord. 12-65)

#### **7.4.609: DISCONTINUANCE:**

Carriers shall notify the City when they place the FCC on notice, via the filing of FCC form 489, that a specific CMRS facility is being discontinued. Antennas and support structures, which are not in use for six (6) months for CMRS purposes, shall be removed by the CMRS facility owner. This removal shall occur within sixty (60) days of the end of the six (6) month period. Upon removal, the site shall be restored to blend with the surrounding environment. If an abandoned facility is not removed within the required time frame the City shall remove the facility and bill the property owner upon which the facility is located for the cost incurred with said removal. In the event that the property owner fails, within thirty (30) days after billing, to pay for the cost and expenses of removal the City may assess a lien against the property for such costs. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 01-42; Ord. 06-162)

# Article 5 ADMINISTRATION AND PROCEDURES

## PART 1 PURPOSE; REVIEW AUTHORITIES

### 7.5.101: PURPOSE:

### 7.5.102: CITY COUNCIL (CC):

### 7.5.103: CITY PLANNING COMMISSION (PC):

### 7.5.104: MANAGER OF COMMUNITY DEVELOPMENT (CD):

### 7.5.105: THRESHOLD OF REVIEW:

#### **7.5.101: PURPOSE:**

The purposes of this part are to provide efficient and timely public review of development proposals; to ensure fairness and due process in public hearings; to administratively separate the enforcement of this Zoning Code from the process of adopting legislative land use plans; to provide for an informal and efficient method of enforcing the requirements of this Zoning Code; and to provide information and establish methods for the implementation of this Zoning Code. These methods include procedures and requirements for reviewing specific uses in zone districts, reviewing land use applications and permits and amending this Zoning Code. Descriptions about the applicable City review authorities are also included.

This part shall describe the jurisdiction and responsibilities of the reviewing authorities involved in the public review process. (Ord. 94-107; Ord. 01-42)

#### **7.5.102: CITY COUNCIL (CC):**

Regarding this Zoning Code, the City Council shall make the final decision about annexations, master plans and major master plan amendments, amendments to the Comprehensive Plan, establishment or changes of zone district boundaries, appeals of Planning Commission and City staff decisions, amendments to the text of this Zoning Code and approval of the terms and conditions of development agreements. (Ord. 94-107; Ord. 01-42; Ord. 01-122; Ord. 03-16; Ord. 03-110; Ord. 09-76; Ord. 12-70; Ord. 19-3)

#### **7.5.103: CITY PLANNING COMMISSION (PC):**

A. Responsibilities: The Planning Commission shall serve as both an advisory board to the City Council on major planning issues throughout the City, and act as final agency action on certain land use matters. All actions of the Commission are appealable to the City Council in conformance with part 9 of this article. For these purposes, it may engage in cooperative and joint planning programs with the planning agencies, officials, and representatives of other governmental units and with private agencies and organizations.

1. The Planning Commission shall have final jurisdiction over the following matters unless appealed to City Council:

- a. Conditional uses;
- b. Nonuse variances referred to the Planning Commission or associated with other development applications;
- c. Development plans, concept plans including any amendments submitted, referred, or appealed to the Planning Commission;
- d. All applications and interpretations referred to the Planning Commission;
- e. Street name changes;
- f. Subdivision procedural requirements and design standard waivers per section [7.7.1301](#) of this chapter;
- g. Use variances.

2. The Planning Commission shall provide recommendations regarding the following applications to the City Council:

- a. Annexations;
- b. Master plan and major amendments to master plans;
- c. Repealed;
- d. Establishment or change of zone district boundaries with an accompanying concept plan except as otherwise provided in an approved FBZ regulating plan;
- e. Amendments to the text of this Zoning Code; and
- f. Terms and conditions of development agreements as provided in an approved FBZ regulating plan. (Ord. 81-131; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 01-122; Ord. 02-51; Ord. 03-16; Ord. 03-110; Ord. 09-76; Ord. 12-24; Ord. 12-70; Ord. 19-3)

**7.5.104: MANAGER OF COMMUNITY DEVELOPMENT (CD):**  

- A. Responsibilities: The responsibilities of the Manager include day to day and long range management of the comprehensive planning, development review and planning data systems.
- B. Jurisdiction: The Manager may impose conditions of approval or make interpretations of this Zoning Code in conjunction with any of the actions listed above.

The Manager shall have jurisdiction over the following matters unless appealed to the Planning Commission or City Council:

1. Development plans, concept plans, major and minor amendments or minor modifications to concept and development plans, minor amendments and adjustments to master plans, nonuse variances and minor amendments or modifications thereto, major or minor amendments or minor modifications to conditional uses, major or minor amendments or minor modifications to use variances, and administrative relief and amendments and minor modifications thereto unless an item must be heard by the Planning Commission because a public hearing is required by condition or with a zone district change application<sup>1</sup>.
2. Subdivision applications as outlined in article 7 of this Zoning Code.
3. Similar use determinations.
4. Interpretations and decisions as outlined throughout this chapter.
5. Permits submitted to and decided by the Manager.

C. Priority Of Enforcement: The Manager shall have the authority to establish priorities for the abatement of zoning violations and implement appropriate procedures to abate each category of violations so established. The procedures established shall be accomplished in accord with part 10 of this article. (Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-76; Ord. 12-70)

**7.5.105: THRESHOLD OF REVIEW:**  

The following table identifies the full range of land use applications and permits, the applicable final review authority, and the review process used. The final review authorities, subject to the provisions of subsection [7.5.202C](#) of this article, are noted by abbreviations which indicate the following: PC is the Planning Commission, CC is the City Council, HP is the Historic Preservation Board, FBZ RB is the FBZ Review Board and CD is Community Development (Department). The table also refers to the following three (3) processes: legislative, quasi-judicial and administrative.

A project which would require the filing of more than one application for land use approval or permit may file all related applications concurrently. Processing and review would be concurrent and the final decision on the project would be made by the highest level of review authority, except for preliminary and final subdivision plats which shall be reviewed and approved administratively by the Department.

Any application reviewed administratively by the Department may be referred to the Planning Commission at the discretion of the Manager.

Any application listed in subsection [7.5.906A](#) of this article that is reviewed administratively by the Department may be appealed to the Planning Commission except as otherwise provided in an approved FBZ regulating plan.

**THRESHOLD OF REVIEW**

Application Type	Reviewing Authority	Review Process	Appeal Process <sup>1,2</sup>
Annexation	PC and CC	Legislative	3

<b>Application Type</b>	<b>Reviewing Authority</b>	<b>Review Process</b>	<b>Appeal Process<sup>1,2</sup></b>
Master plan applications:			
Master plan or major amendment to a master plan	PC and CC	Legislative	3
Minor amendment to a master plan	CD	Administrative	PC (10 days)
Adjustment to master plan	CD	Administrative	PC (10 days)
Zone change applications:			
Establishment of zone boundaries/district	PC and CC	Legislative	3
Change of zone boundary/district	PC and CC <sup>4</sup>	Quasi-judicial	CC (10 days)
Zoning Code text amendment	PC and CC	Legislative	3
Development agreements	PC and CC <sup>4</sup>	Legislative	3
Concept, development plan, conditional use and use variance applications:			
Concept plan associated with an establishment of zoning or a rezoning application	PC and CC	Quasi-judicial	CC (10 days)
Concept plan or major amendment or minor amendment to a concept plan referred to Planning Commission	PC	Quasi-judicial	CC (10 days)
Concept plan, major or minor amendment or minor modification	CD	Administrative	PC (10 days)
Development plan associated with an establishment of zoning or a rezoning application	PC and CC	Quasi-judicial	CC (10 days)

<b>Application Type</b>	<b>Reviewing Authority</b>	<b>Review Process</b>	<b>Appeal Process<sup>1,2</sup></b>
Development plan not associated with an establishment of zoning or a rezoning application	CD	Administrative	PC (10 days)
Development plan or major amendment or minor amendment to a development plan referred to Planning Commission	PC	Quasi-judicial	CC (10 days)
Development plan, major or minor amendment or minor modification	CD	Administrative	PC (10 days)
Conditional use	PC	Quasi-judicial	CC (10 days)
Conditional use, major or minor amendment or minor modification	CD	Administrative	PC (10 days)
Use variance	PC	Quasi-judicial	CC (10 days)
Use variance, major or minor amendment or minor modification	CD	Administrative	PC (10 days)
Final landscape plan	CD	Administrative	PC (10 days)
Subdivision actions:			
Preliminary plat	CD	Administrative	PC (10 days)
Final plats (conforms to a CP, DP or preliminary plat)	CD	Administrative	PC (10 days)
Final plat modification prior to recording	CD	Administrative	PC (10 days)
Vacation plat or vacation sketch	CC	Legislative	3



<b>Application Type</b>	<b>Reviewing Authority</b>	<b>Review Process</b>	<b>Appeal Process<sup>1,2</sup></b>
Subdivision minor administrative procedures	CD	Administrative	PC (10 days)
Street name change	PC	Administrative	CC (10 days)
Subdivision waiver of design standards	PC	Quasi-judicial	CC (10 days)
Subdivision waiver of procedures	PC	Quasi-judicial	CC (10 days)
Minor development applications:			
Nonuse variance, major or minor amendment or minor modification not associated with remedy of land use violation	CD	Administrative	PC (10 days)
Nonuse variance associated with remedy of land use violation	PC	Quasi-judicial	CC (10 days)
Administrative relief minor amendment or modification	CD	Administrative	PC (10 days)
Appeals:			
Appeals of administrative decision	PC <sup>5</sup>	Quasi-judicial	CC (10 days)
Administrative permits:			
Temporary use permit	CD	Administrative	PC (10 days)
Home occupations permit	CD	Administrative	PC (10 days)
Short term rental unit permit	CD	Administrative	PC (10 days)
Historic preservation applications:			

<b>Application Type</b>	<b>Reviewing Authority</b>	<b>Review Process</b>	<b>Appeal Process<sup>1,2</sup></b>
Report of acceptability	HP	Quasi-judicial	CC (10 days)
Denial of economic hardship	HP	Quasi-judicial	CC (10 days)
Denial of noneconomic hardship	HP	Quasi-judicial	CC (10 days)
Development applications from an FBZ Zone District	FBZ RB, PC and/or CC	Administrative Quasi-judicial Legislative	PC and/or CC (10 days)

Notes:

1. The review processes described in this section articulate the type of review each listed land use application will undergo. It is not intended to characterize the type of appeal that may be available under CRCP 106.
2. The number of days is the mandatory time for an appeal to be perfected after decisions by the last reviewing authority. In the event the appeal date occurs on a weekend or City observed holiday, the appeal period will automatically extend to the end of the next City business day.
3. For a legislative item, the Planning Commission's or FBZ Review Board's recommendation will be automatically forwarded to City Council for final decisions. No appeal of the Planning Commission or FBZ Review Board decision is necessary.
4. See subsection [7.5.103A2](#) of this part.
5. Except as otherwise provided in an approved FBZ regulating plan.

All matters shall be reviewed and decisions rendered based upon the following three (3) processes: legislative, quasi-judicial and administrative:

- A. **Legislative:** After the application is submitted to the City, the staff reviews the application and accompanying information and prepares a report and recommendation for presentation at a public hearing. The decision makers may discuss the application and issues with any interested party at any time during the process before the hearing. At the hearing, facts, evidence and testimony are presented and the issues are discussed and debated by the decision makers. A decision is made at the hearing and is based on the information presented at or before the hearing, the Code requirements and criteria, and the discussion and debate. Decision makers may be lobbied.
- B. **Quasi-Judicial:** After an application is submitted to the City, the staff reviews the application and accompanying information and prepares a report and recommendation for presentation at a public hearing. The decision is based completely on facts, evidence and testimony presented at the hearing and evaluated using this Zoning Code requirements and criteria. A decision is made at the hearing, or the matter is taken under advisement and a record of decision is released. Decision makers may not be contacted or lobbied.

- C. Administrative: After an application is submitted to the City, the staff reviews the application and accompanying information, and the Manager makes a decision to approve, approve with modifications, or deny the request which is based on an evaluation of the application using this Zoning Code requirements and criteria. The staff may accept information, evidence and testimony from any interested party. (Ord. 94-107; Ord. 01-42; Ord. 02-62; Ord. 03-16; Ord. 03-110; Ord. 06-88; Ord. 07-35; Ord. 09-50; Ord. 09-77; Ord. 12-24; Ord. 12-70; Ord. 18-112)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): See threshold of review table in section [7.5.105](#) of this part.

## PART 2 APPLICATIONS AND FEES

### [7.5.201: PURPOSE:](#)

### [7.5.202: FILING APPLICATIONS:](#)

### [7.5.203: FEES:](#)

#### 7.5.201: PURPOSE:

These provisions describe the procedures and processing requirements for filing applications for land use approvals, amendments, and permits. (Ord. 94-107; Ord. 01-42; Ord. 05-84)

#### 7.5.202: FILING APPLICATIONS:

- A. Application: Applications for amendments to the Comprehensive Plan, land use approvals, amendments to approvals, Zoning Code amendments, permits, modifications of permits and other matters pertaining to this Zoning Code shall be filed with the division as appropriate, on a City application form, together with all fees, plans, maps, drawings, tables, written information and any other information required by the division. The application shall be made by the property owners or lessees, their agents, persons who have contracted to purchase the property, the City Council, Planning Commission, Historic Preservation Board, Manager of Development Services or a City department, division, section, or other appointed board.
- B. Addition Or Deletion Of Information: The Manager, Planning Commission or City Council may request additional information which they find necessary to review the land use application or permit according to the criteria of the section under consideration. Conversely, some of the information normally required may not be necessary to determine conformance with review criteria. Upon receipt of a written request justifying the deletion of required information and explaining how the review criteria for the item under review will be met, the Manager may waive any submittal requirement. The criterion for a waiver shall be that the review process does not require this information. This request shall be made prior to actual submittal.

C. Multiple Applications: An applicant for a project which would require the filing of more than one application for land use approval or permit may file all related applications concurrently and pay all applicable fees as outlined in section [7.5.203](#) of this part. Processing and review would be concurrent and the final decision on the project would be made by the highest level of review authority. Preliminary and final subdivision plat applications shall be reviewed separately and reviewed administratively unless concurrent review with an application for a vacation of right-of-way or an application for a Subdivision Code procedural or design waiver is required.

D. Preapplication Conference:

1. The applicant is required to contact the Department and hold a preapplication conference for the following application types:

- a. Annexation;
- b. Master plans and amendments;
- c. Zone district establishment or district changes;
- d. Concept and development plans and amendments;
- e. Conditional uses and amendments;
- f. Subdivision plats;
- g. Use and nonuse variances and amendments; and
- h. Right-of-way vacation request.

2. The purpose of the preapplication conference is to provide the Community Development Department staff with an opportunity to:

- a. Identify and communicate specific planning issues which might be associated with the project to the applicant;
- b. Determine whether the project should be forwarded to the Land Development Technical Committee; and
- c. Determine whether a neighborhood meeting should be held prior to the formal submittal of the project.

E. Review: Each application will be reviewed by staff members of City, County, State, Federal departments and/or utility agencies as necessary. They shall submit written reports or comments prior to the approval or denial of such application.

F. Withdrawal Of Applications: Any development application that meets any of the following criteria shall be deemed to be withdrawn and the review formally terminated:

1. The applicant requests that the application be withdrawn;
2. The applicant fails to respond and/or submit revised plans, reports or correspondence to the Community Development Department for more than a one hundred eighty (180) day period following a request from the Community Development Department. The Manager may extend the response period provided that the applicant demonstrates adequate cause for the extension. (Ord. 94-107; Ord. 01-42; Ord. 01-122; Ord. 03-16; Ord. 05-84; Ord. 08-117; Ord. 09-76; Ord. 09-80; Ord. 19-3)

### **7.5.203: FEES:**

The City Council shall establish a schedule of fees for applications of land use approvals, permits and amendments and other matters pertaining to this chapter. The schedule of fees shall be changed only by the City Council. Review shall not begin on any application until all applicable fees have been paid in full, and the City is not required to continue processing any application unless its fees are paid in full. Failure to pay the applicable fees is grounds for denial of the application.

In the case of asserted indigence by an individual, the Manager may waive, or modify, upon application therefor, any fees required to process any application or appeal. Any individual pursuing such a request shall be responsible for the completion of all forms and the submission of all supporting documents which may be prescribed by the Manager. Asserted indigence is determined by the Manager after completion of the fiscal standards document by the individual. The fiscal standards document includes income guidelines, expenses versus income and assets which can be used to pay application fees. The decisions of the Manager shall be final. (Ord. 94-107; Ord. 01-42; Ord. 03-216; Ord. 03-218)

## **PART 3 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

### **7.5.301: PURPOSE:**

### **7.5.302: BUILDING PERMITS:**

### **7.5.303: CERTIFICATES OF OCCUPANCY AND CHANGES IN USE:**

### **7.5.301: PURPOSE:**

The following provisions are intended to ensure that the construction, alteration, repair, or conversion of a structure or the initiation or reestablishment of a legally permitted use within a legally established (or legal, nonconforming) structure shall comply with all applicable provisions of this Code, the Building Code and any applicable Utility and Fire Codes. (Ord. 94-107; Ord. 01-42; Ord. 05-135)

### **7.5.302: BUILDING PERMITS:**

- A. Building Permit Required: Building permits shall be required in accord with the Building Code. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to store building materials, to construct entrances or

parking lots, to commence the moving, structural alteration, conversion, extension, enlargement, alteration or repair of any structure including accessory structures except repairs that consist only of painting, wallpapering or changing of fixtures until a building permit for such work has been issued. All applicable utility/subdivision fees must be paid prior to issuance of building permit.

B. Development Plan Required: An approved development plan shall accompany all building permits, unless a development plan is not required per subsection [7.5.502C](#) of this article.

C. Site Plan Required: An approved site plan shall accompany all building permits when a development plan is not required per subsection [7.5.502C](#) of this article. (Ord. 80-131; Ord. 86-66; Ord. 91-30; Ord. 01-42; Ord. 02-153; Ord. 09-76)

### **7.5.303: CERTIFICATES OF OCCUPANCY AND CHANGES IN USE:**

Certificates of occupancy shall be required in accord with section RBC110 (certificates of occupancy) of the Building Code. (Ord. 80-131; Ord. 91-30; Ord. 01-42; Ord. 05-135)

## **PART 4 MASTER PLANS**

### **[7.5.401: PURPOSE:](#)**

### **[7.5.402: TYPES OF MASTER PLANS:](#)**

### **[7.5.403: LAND USE MASTER PLANS; WHEN REQUIRED, WAIVER OF REQUIREMENTS, AMENDMENTS AND MINOR ADJUSTMENT:](#)**

### **[7.5.404: APPLICATION:](#)**

### **[7.5.405: AUTHORITY TO MAKE APPLICATION:](#)**

### **[7.5.406: MASTER PLAN REQUIREMENTS AND MASTER PLAN LAND USE CLASSIFICATIONS:](#)**

### **[7.5.407: REVIEW PROCEDURES:](#)**

### **[7.5.408: REVIEW CRITERIA:](#)**

### **[7.5.409: CHANGED CONDITIONS:](#)**

### **[7.5.410: MASTER PLAN LAND USE DEFINITIONS:](#)**

### **7.5.401: PURPOSE:**

A master plan, as defined by the City of Colorado Springs, is designed to serve as a refinement of the Comprehensive Plan and, as such, is an early step in the land development process. Master plans provide a guide to various issues concerning development.

The master plan is legislative in nature and provides advisory land use and development guidelines to be used by the Planning Commission and the City Council in their review of applications for rezoning, plats, or other land development review provided for in this Zoning Code and the Subdivision Code of this chapter. Conformance to an approved master plan will constitute a

community benefit as described in the Comprehensive Plan.

This article recognizes the need for flexibility and that long term planning and consistency must be balanced with the need to amend plans as conditions change. The intent is to permit changes to a master plan that conform to contemporary standards and current codes, policies and plans. An approved master plan shall be used by the City as a guide to zoning. Subsequent steps in the development process will establish more specific plans, which shall be consistent with the adopted master plan.

Master plans are intended to achieve the following objectives through conformance to the review criteria contained herein:

- A. To serve as a refinement of the Comprehensive Plan;
- B. To encourage coordination in the provision of City capital improvements;
- C. To serve as a guide for future land use and transportation patterns;
- D. To aid the City in making annexation decisions;
- E. To analyze the impact of proposed development on public facilities and environmental quality;
- F. To analyze the proportional fiscal impact of the proposed development on the City;
- G. To identify and protect significant natural features;
- H. To assure coordinated implementation of adopted City and utility plans; and
- I. To serve as an information resource for residents and developers concerning future land use patterns and related development issues. (Ord. 84-221; Ord. 91-30; Ord. 94-107; Ord. 97-109; Ord. 01-42; Ord. 02-51; Ord. 19-3)

#### **7.5.402: TYPES OF MASTER PLANS:**

A. Types Of Master Plans: The following categories of master plans are based upon the kind of information presented and the geography covered by the plan:

1. Citywide system plans: These are planning reports that detail the existing and future needs for infrastructure and facilities such as open space, parks, transportation and utilities. These plans are most frequently prepared by the City.

2. Facility master plans: These are documents that detail the plans and the existing physical components of various public and private sector facilities. Examples include the Colorado Springs Airport master plan and the Penrose hospital plan.
3. Land use master plans: These are plans for specific geographic areas. These plans provide information about such issues as land use, transportation, open space, parks, and schools. Plans for undeveloped land are most frequently prepared by the private sector, while plans for established or redeveloping areas are prepared by neighborhood organizations or the City, either singly or collaboratively.

B. Legislative Status Of Master Plans: The Planning Commission shall recommend and the City Council shall determine the legislative status of each master plan. The legislative status will identify those master plans that remain operative, those that have been implemented and those that are out of date. A recommendation concerning the legislative status will be made to the Planning Commission as part of an annual Colorado Springs Comprehensive Plan Monitoring and Evaluation Report prepared by the Community Development Department. Legislative status for individual master plans is categorized as follows:

1. Operative master plan: A master plan that is less than eighty five percent (85%) built out with some or all of the property zoned with a temporary zoning district. There is continuous rezoning, development plan and platting activity in conformance with an approved phasing plan. Built out is when a structure or structures have been constructed on platted lots.
2. Implemented master plan: A master plan that is eighty five percent (85%) or more built out and the remaining vacant land is zoned in conformance with the master plan. The redevelopment and neighborhood plans that are more than eighty five percent (85%) built out and are being used as an ongoing guide will not be classified as implemented.
3. Out of date master plan: A master plan that is no longer used because it has been either replaced by another master plan or no longer furthers the purpose of this part of this Zoning Code.

The provisions for public hearing, notice, and appeals of the Planning Commission decision shall be in accordance with part 9, "Notice, Hearings And Appeals", of this article. The findings of the Planning Commission shall be forwarded to the City Council. (Ord. 97-109; Ord. 01-42; Ord. 01-122; Ord. 02-51; Ord. 09-80)

**7.5.403: LAND USE MASTER PLANS; WHEN REQUIRED, WAIVER OF REQUIREMENTS, AMENDMENTS AND MINOR ADJUSTMENT:**  

A. Master Plan Required: A land use master plan shall be required to accompany any request for annexation, unless waived as specified in this section. The Comprehensive Plan will be used in the analysis to determine appropriate land uses in conjunction with the proposed annexation.

B. Waiver Of Master Plan Requirement: It is recognized that with certain requests for annexation, a land use master plan will not further the purpose of this part. The Manager may waive the submission of a land use master plan based upon a review of the following criteria:

1. The land area under review is a small parcel of land, which is less than thirty (30) acres and proposed for a single primary land use;



2. The land area under review is part of an enclave with a well established surrounding development pattern; and
3. No major infrastructure or urban services are required based upon initial assessment of fiscal impact.
4. When waived, a concept plan, development plan or subdivision plat shall be required to be submitted for review and approval in lieu of a master plan.

The landowner shall submit a written letter to the Manager stating the reason for requesting the waiver and stating how the criteria are met. Upon review of the written request, the Manager may waive the requirement for a land use master plan if the criteria are met and a land use master plan would not further the purpose of this part to require a land use master plan.

C. Amendments: Master plans are generalized guides for development and it may become necessary to amend them as conditions change. There are two (2) categories of amendments based upon their complexity and community wide impact. The Manager shall determine if an amendment is major or minor based upon the following:

1. Major amendment: This is a requested change that potentially has a significant impact upon one or all of the following:
  - a. The transportation system,
  - b. Utility infrastructure,
  - c. Public facilities, such as parks and schools,
  - d. The provision of public safety services and facilities.
  - e. Changes in master plan land use classification designation.
2. Minor amendment: A request for a change that will have a minimal impact on the City's transportation system, utility infrastructure and public facilities and the provision of public safety services and facilities. A change from one land use category to another may be considered minor if the impact of the requested change is determined to be minimal.

D. Adjustment: Master plans are a generalized guide for land use, drainage, transportation and public facilities. When the more detailed plans for development of the various portions of the master plan are developed, there may be a need to make minor adjustments to the master plan. The Manager may approve adjustments to a master plan to maintain consistency between the master plan and the more detailed plans. These adjustments can be approved when they are reviewed in conjunction with a rezoning, concept plan and/or a development plan. Examples include minor adjustments to a road alignment, to street intersections, and to parcel configurations.

The landowner shall submit a written letter to the Manager stating the reason for requesting the adjustments and why the requested adjustments are minor. Upon review of the written request,

the Manager may approve the request if it is found to be minor. (Ord. 97-109; Ord. 01-42; Ord. 02-51; Ord. 09-80; Ord. 12-71; Ord. 19-3)

#### **7.5.404: APPLICATION:**

An application for a land use master plan, a facility master plan, an amendment or an adjustment thereto shall be filed in accord with the requirements contained in part 2 of this article. The application shall be reviewed to ensure consistency with the intent, purpose, and requirements of this part, this Zoning Code and the Comprehensive Plan. Unless waived by the Manager, a land suitability analysis meeting the content requirements of section [7.3.504](#) of this chapter shall accompany an application for a new land use master plan or a major amendment to a land use master plan, if not previously submitted. (Ord. 94-107; Ord. 97-109; Ord. 01-42; Ord. 09-76; Ord. 12-71)

#### **7.5.405: AUTHORITY TO MAKE APPLICATION:**

A land use master plan or facility master plan may be submitted for approval by any of the following appropriate groups:

- A. A landowner or a group of landowners of undeveloped property within the specific land use master plan;
- B. The City of Colorado Springs;
- C. The Planning Commission after it has determined that a master plan is needed to further either the purpose of this part, this chapter or the goals and policies of the Comprehensive Plan; and
- D. A neighborhood organization representing property owners of a specified geographical area or similar entity after authorization by the City Planning Commission. (Ord. 84-221; Ord. 91-30; Ord. 94-107; Ord. 97-109; Ord. 01-42)

#### **7.5.406: MASTER PLAN REQUIREMENTS AND MASTER PLAN LAND USE**

##### **CLASSIFICATIONS:**

- A. Submittal Requirements: A master plan shall contain all information requested by the submittal requirements for a land use master plan or facilities master plan listed on the application form available at the Community Development Department.

The more detailed land use classifications listed below improve the consistency in the review of master plans and provide a more detailed representation of location and relationships. The following land use classifications shall be used when indicating the various proposed land uses within the plan. Accompanying definitions are located in section [7.5.410](#) of this part.

1. Residential Land Use: For planning purposes, the primary concern with regard to residential uses is density, expressed as the number of dwelling units per gross acre. Hence, residential land use categories are defined by density ranges. These density ranges were established after considering the density distinctions of the Park and School Fee Code, an analysis of the frequency of all the density ranges in existing master plans and conformity with Residential Zone Districts.

Master plans may specify more incremental density ranges, as long as they fit within the categories listed below. For example, a range of 2 - 2.99 is acceptable. However, a category of 2 - 4 would not be allowed as a density range because it cuts across the limits of the established categories.

0 - 1.99	dwelling units per gross acre
2 - 3.49	dwelling units per gross acre
3.5 - 7.99	dwelling units per gross acre
8 - 11.99	dwelling units per gross acre
12 - 24.99	dwelling units per gross acre
25+	dwelling units per gross acre

2. Commercial Land Use: Office and commercial uses are found throughout the City, both in individual structures, clustered in mixed use centers or in unified developments. Office uses differ from other commercial categories in their traffic generation characteristics. Offices generate the bulk of their automobile traffic during peak or "rush" hours, Monday through Friday. Other commercial uses rely more heavily on the flow of customers throughout their hours of operation, which typically include evenings and weekends. These commercial designations conform to generally accepted standards for retail market areas.

- a. Office.
- b. Neighborhood commercial.
- c. Community commercial.
- d. Regional commercial.
- e. Highway oriented commercial.

3. Industrial Use: Industrial uses are those involved with manufacturing, processing, refining, wholesaling, testing, storage, transportation, communications and utilities. Common characteristics of industrial uses include relatively light traffic generation with trucks disproportionately represented; sites with large land areas relative to the number of employees; and horizontally oriented structures.

- a. Industrial.
- b. Warehouse/wholesale.
- c. Office-industrial park/research and development.

4. Park And Recreational Uses: This category includes open space, trails, golf and park uses. Ownership can be public or private, although the majority are publicly owned and maintained. With some exceptions, traffic volumes generated by these uses will be low relative to the land area. Higher volumes will be present at sites that serve as major tourist destinations, such as Garden of the Gods park, and at some facilities during sporting events. Traffic is mostly off peak, during

evenings and weekends, although more even flows will be present during summer months. Recreational facilities must be completely located outdoors to be included in this category. Skating rinks, indoor swimming pools and bowling alleys should be considered commercial uses, except for those facilities associated with community or regional parks. Also excluded from this category are intensive outdoor recreational uses such as racetracks, water slides, miniature golf courses, and other uses that rely on commercial signage and exhibit commercial traffic patterns.

- a. Open space.
- b. Trail.
- c. Golf course.
- d. Neighborhood park.
- e. Community park.
- f. Regional park.

5. Extractive Use: The primary categories in this classification are mining and agriculture. Agriculture includes silviculture, orchards, pasturing, grazing, confined livestock feeding operations, groves and vineyards. Mining is used here in the broad sense to include the extraction of naturally occurring minerals, whether in a solid, liquid or gas form. Accessory agricultural or mining structures fall into this classification, as long as their use is directly associated with the extractive activity. Uses that involve the further processing of resources, such as sawmills, lumberyards, creameries, or mineral processing facilities should be classified as industrial.

- a. Agriculture.
- b. Mining.

6. Street/Utility Rights-Of-Way: A right-of-way is a strip of land set aside for use as a street, crosswalk, railroad, electric transmission/distribution line, oil or gas pipeline, water main, sanitary or storm sewer main, telephone line, or other similar public uses. In some cases, the right to use land for one of these purposes is obtained through an easement. An easement is created when the landowner turns over some property rights, without relinquishing ownership.

A facility is a piece of land and the improvements that provide for a specific utility, transportation or stormwater management use.

For planning purposes, the most significant rights-of-way are those set aside for use as major streets (arterials and collectors), drainage areas and utility lines.

- a. Arterial street right-of-way.
- b. Collector street right-of-way.
- c. Other public street right-of-way.
- d. Private street right-of-way.

- e. Utility easement/right-of-way or facility.
  - f. Drainage detention facilities, drainageways, easements and rights-of-way.
7. Public/Institutional Use: Public and institutional uses are fairly narrowly defined activities that do not fit into any other classification. The majority of these uses are focused on community services, but this is not a defining characteristic. Common features include erratic traffic generation and operating hours.
- a. University/conference center.
  - b. Primary/secondary school.
  - c. Hospital/long term care.
  - d. Public safety.
  - e. Minor public assembly.
  - f. Major public assembly.
  - g. Airport/military installation.
  - h. Utility facilities.
8. Activity Center: Activity center is a general term for a mixed use center that integrates a range of complementary and mutually supporting uses and activities. Typically, an activity center includes a predominant type of use, such as commercial or employment related, that is then supported by a mix of one or more other uses, such as residential, civic, or institutional. The predominant use generally determines the type of center. Activity centers may vary in size, intensity, scale, and their mix of supportive uses, depending on their purpose, location, and context. In each case, activity centers are intended to be mixed use and pedestrian oriented and to establish good connections and transitions to surrounding areas. Residences are a component of all activity centers. The activity center should support a range of housing affordability, types and densities within the individual neighborhoods. (Ord. 84-221; Ord. 91-30; Ord. 97-109; Ord. 01-42; Ord. 02-51; Ord. 08-44; Ord. 09-80; Ord. 12-71; Ord. 19-3)

#### **7.5.407: REVIEW PROCEDURES:**

- A. An application for a land use master plan, a facilities master plan, or a major amendment shall be reviewed by the Planning Commission at a public hearing in accord with part 9 of this article. A recommendation by the Planning Commission shall be forwarded to the City Council which may refer the application back to the Planning Commission for further consideration, affirm, or modify the recommendation of the Planning Commission or deny the application.
- B. The provisions for the public hearing, the notice and the appeal of any Planning Commission decision shall be in accord with this article.

C. The revised land use or facility master plan shall be processed in accord with the requirements for amendments to a land use master plan as stated in this section.

D. An application for a minor amendment or adjustment shall be reviewed administratively. (Ord. 97-109; Ord. 01-42; Ord. 02-51; Ord. 09-76)

#### **7.5.408: REVIEW CRITERIA:**

Master plans and major and minor amendments to approved master plans shall be reviewed for substantial conformance with the criteria listed below. Minor amendments are not subject to review criteria in subsection F of this section.

A. Comprehensive Plan: The Comprehensive Plan is the context and benchmark for the assessment of individual land use master plans. The proposed land use master plan or the amendment conforms to the policies and strategies of the Comprehensive Plan.

#### B. Land Use Relationships:

1. The master plan promotes a development pattern characterizing a mix of mutually supportive and integrated residential and nonresidential land uses with a network of interconnected streets and good pedestrian and bicycle connections.
2. Activity centers are designed so they are compatible with, accessible from and serve as a benefit to the surrounding neighborhood or business area. Activity centers also vary in size, intensity, scale and types of uses depending on their function, location and surroundings.
3. The land use pattern is compatible with existing and proposed adjacent land uses and protects residential neighborhoods from excessive noise and traffic infiltration.
4. Housing types are distributed so as to provide a choice of densities, types and affordability.
5. Land use types and location reflect the findings of the environmental analysis pertaining to physical characteristics which may preclude or limit development opportunities.
6. Land uses are buffered, where needed, by open space and/or transitions in land use intensity.
7. Land uses conform to the definitions contained in section [7.5.410](#) of this part.

#### C. Public Facilities:

1. The land use master plan conforms to the most recently adopted Colorado Springs parks, recreation and trails master plan.
2. Recreational and educational uses are sited and sized to conveniently service the proposed population of the master plan area and the larger community.
3. The proposed school sites meet the location, function and size needs of the school district.

4. The land use master plan conforms to the adopted plans and policies of Colorado Springs Utilities.
5. Proposed public facilities are consistent with the strategic network of long range plans.
6. The master development drainage plan conforms to the applicable drainage basin planning study and the drainage criteria manual.

#### D. Transportation:

1. The land use master plan is consistent with the adopted intermodal transportation plan. Conformity with the intermodal transportation plan is evidence of compliance with State and local air quality implementation and maintenance plans.
2. The land use master plan has a logical hierarchy of arterial and collector streets with an emphasis on the reduction of through traffic in residential neighborhoods and improves connectivity, mobility choices and access to jobs, shopping and recreation.
3. The design of the streets and multiuse trails minimizes the number of uncontrolled or at grade trail crossings of arterials and collectors.
4. The transportation system is compatible with transit routes and allows for the extension of these routes.
5. The land use master plan provides opportunities or alternate transportation modes and cost effective provision of transit services to residents and businesses.
6. Anticipated trip generation does not exceed the capacity of existing or proposed major roads. If capacity is expected to be exceeded, necessary improvements will be identified, as will responsibility, if any, of the master plan for the construction and timing for its share of improvements.

#### E. Environment:

1. The land use master plan preserves significant natural site features and view corridors. The Colorado Springs open space plan shall be consulted in identifying these features.
2. The land use master plan minimizes noise impacts on existing and proposed adjacent areas.
3. The land use master plan utilizes floodplains and drainageways as greenways for multiple uses including conveyance of runoff, wetlands, habitat, trails, recreational uses, utilities and access roads when feasible.
4. The land use master plan reflects the findings of a preliminary geologic hazard study and provides a range of mitigation techniques for the identified geologic, soil and other constrained natural hazard areas.

#### F. Fiscal:

1. A fiscal impact analysis and existing infrastructure capacity and service levels are used as a basis for determining impacts attributable to the master plan. City costs related to infrastructure and service levels shall be determined for a ten (10) year time horizon for only the appropriate Municipal funds.
2. The fiscal impact analysis demonstrates no adverse impact upon the general community and the phasing of the master plan is consistent with the adopted strategic network of long range plans that identify the infrastructure and service needs for public works, parks, police and fire services.
3. The cost of on site and off site master plan impacts on public facilities and services is not borne by the general community. In those situations where the master plan impacts are shown to exceed the capacity of existing public facilities and services, the applicant will demonstrate a means of increasing the capacity of the public facilities and services proportionate to the impact generated by the proposed master plan. Mitigation of on site and off site costs may include, but is not limited to, planned expansions to the facilities, amendments to the master plan, phasing of the master plan and/or special agreements related to construction and/or maintenance of infrastructure upgrades and/or service expansions. Any special agreements for mitigation of on site and off site impacts for public improvements, services and maintenance are shown to be workable and supported by financial assurances. Preexisting and/or anticipated capacity problems not attributable to the master plan shall be identified as part of the master plan review.
4. Special agreements for public improvements and maintenance are shown to be workable and are based on proportional need generated by the master plan.
5. Any proposed special districts are consistent with policies established by the City Council. (Ord. 84-221; Ord. 87-38; Ord. 91-30; Ord. 94-107; Ord. 97-109; Ord. 01-42; Ord. 02-51; Ord. 19-3)

#### **7.5.409: CHANGED CONDITIONS:**

The land use master plan spans the gap between the Comprehensive Plan and the more site specific zoning, concept plans, development plans and subdivision plats. It is important that these land use master plans remain current and valid as a component of long range land use and infrastructure planning for the City. It is recognized that conditions change over time, and that the land use master plans shall be reevaluated as part of the annual reporting and monitoring of the City's Comprehensive Plan to maintain their validity and usefulness to the community.

During the review of an amendment or minor adjustment, the significance of the changed conditions will be evaluated using the following guidelines:

- A. Changes to the City codes and policies relating to land development or the provision of utility service.
- B. New or amended Citywide system plans or facility master plans.
- C. Recommendations from the regional transportation plan, including, but not limited to:
  1. Carrying capacity of streets.
  2. Changing traffic patterns.



3. New major arterials or expressways.

4. Roadway classifications.

D. A recently adopted drainage basin planning study or amendment to the drainage criteria manual.

E. Amendments to annexation agreements.

F. The potential for falling below service standards for the provision of emergency services (police and fire) based on growth in the vicinity of the master plan.

G. Changes in the service standards for parks or schools.

H. An assessment of how development activity, such as changes in residential densities and land use types and their cumulative impacts between the time of a master plan's original or most recent approval and the present time, affects the master plan and infrastructure capacity and provision of urban services in that part of the City. (Ord. 94-107; Ord. 97-109; Ord. 01-42; Ord. 02-51; Ord. 12-71)

#### **7.5.410: MASTER PLAN LAND USE DEFINITIONS:**

A. Agriculture: Includes silviculture, pasturing, grazing, confined livestock feeding operations, orchards, groves and vineyards.

B. Airport/Military Installation: This category includes only airports or military installations within the City boundaries.

C. Community Commercial: Community commercial areas differ from neighborhood commercial clusters mainly in scale and variety. Although the same basic stores and services are present in each, community uses tend to have a wider service radius, generally over two (2) miles, or a population of at least thirty thousand (30,000), and may provide opportunities for comparative shopping. Community centers may cover up to thirty (30) acres, and tend to be located at the intersection of major and/or minor arterials. Community commercial centers share the same traffic generation and operational characteristics as neighborhood centers, although traffic volumes will be higher at community centers.

D. Community Park: Community parks range in size from twenty five (25) to one hundred (100) acres, and serve residents within a one and one-half (1½) mile radius. Typical facilities include those found in neighborhood parks, plus softball/baseball diamonds, soccer fields, swimming pools, tennis courts, restrooms and parking areas.

- E. General Industrial: Uses in this classification are establishments engaged in processing, manufacturing, assembly, utilities or outdoor storage. Traffic generation will occur chiefly during employee shift changes. Truck traffic is disproportionately represented. Operating hours may be nonstandard, with many facilities active twenty four (24) hours a day. Structures tend to be one story, and are usually large relative to the number of personnel. Possible nuisances associated with industrial uses include noise, truck traffic, and odors. Typical uses include any permanent outdoor storage area, including salvage yards, lumberyards and vehicle maintenance areas; factories, processing plants, refineries, mills, slaughtering houses and creameries; and nonoffice utility facilities such as water or sewerage treatment plants, electrical generation plants and electrical substations.
- F. Golf Course: This category includes only standard golf courses. Miniature golf sites and stand alone driving ranges should be considered commercial uses. Driving ranges that are part of a golf facility may be included in this classification. Clubhouses, restaurants, pro shops and other associated uses are considered accessory to the main use, the golf course.
- G. Highway Oriented Commercial: This category includes nonoffice uses that are dependent on roadway or airport traffic. Unlike other commercial uses, those in this category do not have a geographically defined service area. They are oriented toward serving motorists along major roads and highways, or airport customers. Typical uses include hotels, motels, gas stations, and restaurants. Operating hours include evenings and weekends, and traffic generation is steady.
- H. Hospital: An institution providing primary health services and medical or surgical care to persons suffering from illness, disease, injury and other ailments, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities or training facilities.
- I. Major Public Assembly: These uses are structures with capacities of over five hundred (500) people that are only used for scheduled activities. Specific uses may include places of worship, arenas, stadiums, playhouses and concert venues.
- J. Mining: Mining is used here in the broad sense to include the extraction of naturally occurring minerals, whether in a solid, liquid or gaseous form.
- K. Minor Public Assembly: Minor public assembly sites are structures with capacities of up to five hundred (500) people that are only used for scheduled activities. Specific uses may include churches, synagogues, other places of worship, playhouses and fraternal lodges. Traffic generation is concentrated around the event schedule.
- L. Neighborhood Commercial: Neighborhood commercial uses provide personal and professional services, and retail goods for residents within a one and one-half ( $1\frac{1}{2}$ ) to two (2) mile radius, or a neighborhood of at least five thousand (5,000). Centers are typically sited at the intersection of a minor arterial and/or collector street. Traffic generation is steady throughout the hours of operation, and is characterized by high turnover. Hours of operation, particularly for retail uses, may be nonstandard. Sites for neighborhood commercial centers generally do not exceed ten

(10) acres. Examples of this land use type include convenience stores, grocery stores, branch banks, branch post offices, dry cleaners, video stores, travel agencies and small medical offices.

M. Neighborhood Park: This is the smallest park type, with a size range from 3.5 to twenty five (25) acres. The service radius is one-half ( $\frac{1}{2}$ ) mile. Facilities and improvements typically found in neighborhood parks include playground equipment, basketball courts, landscaping, picnic areas and informal fields.

N. Office; Industrial Park/Research And Development: This category includes structures that are used for a combination of industrial, office and research and development activities. Developments often encompass several related buildings in a campus setting. Traffic generation may be higher than that for general industrial uses, but will center around employee travel. Truck traffic is disproportionately represented, but is typically lower than in general industrial uses.

O. Office; Low, Medium And High: Office uses include any structure used primarily for administrative purposes and professional services where the bulk of traffic generation occurs during peak hours. Truck traffic is limited to occasional deliveries. Structures housing service providers such as banks or medical facilities that generate constant traffic during standard business hours should be considered commercial, rather than office uses. Office structures may stand alone or be part of a unified development.

The three (3) office categories here are differentiated by intensity, as reflected in floor area ratio (FAR). The floor area ratio is the gross building floor area divided by the total site area in square feet. The FAR ranges for each office category are as follows:

<u>Office Category</u>	<u>Floor Area Ratio (FAR)</u>
Low	Less than 0.25
Medium	0.25 to 0.44
High	0.45 or higher

P. Open Space: An open space area is land that is kept in its natural state in perpetuity. Vacant land that may be subject to future development is not considered open space. There is no specified size range for open space, other than the minimum area needed to conserve a significant natural feature.

Q. Planning Evaluation Zones: Planning evaluation zones are contiguous sections of the City with relatively consistent development characteristics. Planning evaluation zones create manageable planning units for land use, transportation, facility, demographic and growth analysis. These planning units are used to provide a context for the evaluation of development proposals, such as master plans.

- R. Primary/Secondary School: This category is designed for any kindergarten, primary or secondary school without boarding students. Both public and private schools are included.
- S. Public Safety: This category includes police and fire stations only.
- T. Regional Commercial: These are primarily retail land uses intended to provide some of the functions of the other commercial centers, plus the sale of general merchandise and may include some office uses. Sites generally exceed thirty (30) acres and tend to be located at the intersection of two (2) major arterials. The service area is a radius of about five (5) miles or at least one hundred thousand (100,000) people. Hours of operation include evenings and weekends. Traffic generation is constant and volumes are high relative to other commercial types.
- U. Regional Park: Regional parks are at least one hundred (100) acres in size and serve a population within one hour's drive. All of the existing regional parks in Colorado Springs contain mostly natural areas with few developed facilities. However, the parks and recreation guidelines permit all of the uses found in neighborhood and community parks, with the addition of visitor centers, information centers, golf courses, boating and fishing.
- V. Residential: This category includes uses providing primarily permanent living accommodations. They include detached and attached single-family, two-family, multi-family dwelling units as well as accessory dwelling units, apartments, townhomes, condominiums, mobile homes, manufactured homes, boarding homes and retirement homes.
- W. Trail: Trails are linear spaces dedicated to nonmotorized users such as pedestrians, bicyclists and equestrians. Limited motorized uses may be allowed for maintenance, or security. Trails may be located within parks or open spaces, or by themselves.
- X. University/Conference Center: This category includes colleges, universities, boarding schools and resorts or conference centers with residential components. Common characteristics are campus setting with multiple buildings such as temporary living quarters, offices, classrooms, meeting rooms, recreation areas and dining facilities; typically extensive grounds; the provision of living quarters is secondary to the primary activity (education, conferences, rehabilitation, etc.); periodic guest or student turnover; nonstandard operating hours; and erratic traffic generation. Establishments that are primarily engaged in providing lodging, such as hotels and motels, are not included.
- Y. Warehouse/Wholesale: Uses in this category share many of the physical characteristics of general industrial uses, but are engaged only in storage and wholesaling. Only very limited outdoor storage is allowed; indoor storage is the standard for this category. The most common uses include warehouses, rental storage units, and wholesale trade establishments. Structures are large relative to the number of employees, and the majority of traffic generation is from employees. Some wholesale establishments may draw significant customer traffic, but not as much as would be expected from a similarly sized commercial business. Truck traffic is disproportionately high. (Ord. 09-69; Ord. 12-71)

# PART 5 CONCEPT PLANS AND DEVELOPMENT PLANS



## [7.5.501: CONCEPT PLANS:](#)

## [7.5.502: DEVELOPMENT PLANS:](#)

## [7.5.503: CONCEPT AND DEVELOPMENT PLAN APPLICATION REVIEW](#)

## [PROCEDURES:](#)

## [7.5.504: ADDITIONAL CONCEPT AND DEVELOPMENT PLAN REQUIREMENTS AND INFORMATION:](#)

## [7.5.505: COMPLIANCE:](#)

### **7.5.501: CONCEPT PLANS:**

A. Description And Purpose: Each zone district is primarily intended for a predominant type of land use or mix of land uses with specific physical requirements which regulate structure size and placement on the site. A concept plan is used to review the impact of the proposed land uses on the adjacent properties, neighborhood, road systems, and existing and planned infrastructure and to determine the need for additional dedication and design criteria. It is intended to be a general outline of a proposed zone district or project which shows access, primary circulation, areas to be used for buildings, parking, landscaping, and buffering, and areas which should be preserved or protected.

The purposes of the concept plan review are:

1. To ensure use to use compatibility between the proposed land uses, zone district with the surrounding area;
2. To minimize potential hazardous, adverse or objectionable effects of the proposal;
3. To ensure safe points of access to all future lots and adjacent properties;
4. To ensure, when used as or in conjunction with a preliminary plat, that all subdivision requirements such as right of way width and utility easement dedications can be met;
5. To ensure that all zone district development standards can be met;
6. To establish ranges of uses and square footages and other conditions of record for future development;
7. To evaluate existing and proposed road systems, utilities, schools, parks and other public facilities to determine if they are adequate to serve the proposed project; and
8. To provide City conceptual approval of the development project and to allow the applicant to proceed to seek City approvals of the necessary development plan, subdivision plat or other applications and requirements.

B. Concept Plan Required: A concept plan shall be required, unless specifically exempted per subsection C of this section:

1. A concept plan shall accompany an application for the establishment of a zone district or a change of zone district boundaries and include the entire zone district area unless specifically exempted per subsection C of this section;
2. When only a portion of a parcel is proposed to be developed or subdivided, using a development plan and final subdivision plat, the remaining areas of the parcel shall be shown within a concept plan area.

C. Exceptions: A concept plan shall not be required in the following instances:

1. With an application for the establishment of a zone district or a change of zone district boundaries for the following zone districts where a concept statement shall be deemed acceptable: A, R, R-1 9000, R-1 6000, R-2, PF and PK.
2. When an application for a development plan is submitted that includes the entire concept plan area.
3. When a preliminary plat is used in lieu of a concept plan and includes all of the information required for both the concept plan and the preliminary plat.

D. Concept Plan Requirements:

1. A concept plan, unless specifically exempted per subsection C of this section, shall be approved, prior to the approval of a development plan unless a development plan is used in lieu of a concept plan per subsection C3 of this section and includes all of the concept plan area.
2. A concept plan, unless specifically exempted per subsection C of this section, shall be approved, prior to the approval of a final subdivision plat.
3. A concept plan may be used in lieu of a preliminary plat if the concept plan includes all of the information required for both the concept plan and the preliminary plat.
4. Changes in a concept plan shall be affected only by the approval of an amendment or minor modification to the concept plan.
5. If a development plan is approved for a portion of a concept plan area, the remaining areas of the concept plan shall remain approved and valid.

E. Concept Plan Review Criteria: A concept plan shall be reviewed using the criteria listed below. No concept plan shall be approved unless the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the existing and proposed land uses surrounding the site.

1. Will the proposed development have a detrimental effect upon the general health, welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development?

2. Will the proposed density, types of land uses and range of square footages permit adequate light and air both on and off the site?
3. Are the permitted uses, bulk requirements and required landscaping appropriate to the type of development, the neighborhood and the community?
4. Are the proposed ingress/egress points, traffic circulation, parking areas, loading and service areas and pedestrian areas designed to promote safety, convenience and ease of traffic flow and pedestrian movement both on and off the site?
5. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?
6. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods?
7. Does the concept plan show how any potentially detrimental use to use relationships (e.g., commercial use adjacent to single-family homes) will be mitigated? Does the development provide a gradual transition between uses of differing intensities?
8. Is the proposed concept plan in conformance with all requirements of this Zoning Code, the Subdivision Code and with all applicable elements of the Comprehensive Plan? (Ord. 94-107; Ord. 01-42; Ord. 03-157; Ord. 09-78; Ord. 12-72)

#### **7.5.502: DEVELOPMENT PLANS:**

A. Description And Purpose: Each zoning district is primarily intended for a predominant type of land use or mix of land uses, with specific minimum and maximum development standards which regulate the structure height, bulk and placement on the site and the amount and location of landscaping and buffer between uses. All combinations of permitted uses and development standards in a zoning district may not be appropriate at a particular location. It is necessary to require a development plan in order to review the specific impacts of the proposed land use and site design on the adjacent properties, neighborhood, schools, parks, road systems, and existing and planned infrastructure. The proposed site design can be evaluated against all the circumstances weighing upon this individual case. The purposes of the development plan review are:

1. To ensure use to use compatibility between the proposed land use and site design with the surrounding area.
2. To minimize objectionable and adverse effects and to eliminate potential hazards of the proposed land use by proposing specific site design solutions.
3. To ensure points of access, internal circulation and pedestrian movement to all proposed lots, land uses and adjacent properties.
4. To ensure that all zone district development standards are met.
5. To ensure, when used in conjunction with a preliminary or final subdivision plat, that all subdivision requirements including, but not limited to, easement and public facility dedication requirements can be met.

6. To establish the approval of specified uses, square footages, site design and other conditions; and
7. To evaluate existing and proposed road systems, utilities, schools, parks and other public facilities to determine if they are adequate to serve the proposed project.

This review may indicate the most appropriate land use development is one which is less intensive than the maximum allowed by the zone and that the most appropriate site design is one which requires greater than minimum standards.

B. Development Plan Required: A development plan shall be required prior to the issuance of a building permit or the commencement of a new use for the following instances unless specifically exempted per subsection C of this section or waived by the Manager for:

1. All new construction;
2. When no development plan exists, additions to an existing building that cumulatively, as of September 12, 1995, increases the gross floor area of the building by fifty percent (50%) or greater;
3. When required by the City Planning Commission or City Council, as a condition of record for the establishment of or change of zone district;
4. The conversion of vacant land into a new use;
5. The conversion of an existing building's or property's land use type to another land use type (ex.: residential use to a commercial use, but not commercial use to another commercial use, etc.);
6. The total redevelopment (demolition and new construction) of an existing building or site.

C. Exceptions: A development plan shall not be required, when the following instances occur:

1. New construction or an addition to an existing detached single-family or attached two-family residential structure, accessory dwelling unit and accessory structures upon an existing platted lot;
2. Additions to an existing building that cumulatively, as of September 12, 1995, increases the gross floor area of the building less than fifty percent (50%);
3. Public parks in which a Park Master Plan has been or will be reviewed by the City Parks, Recreation and Cultural Resources Department;
4. A Federal government project when both the property and the structure will be owned, maintained and operated by the governmental entity;
5. Upon properties located within an A, R, R-1 9000, R-1 6000, or R-2 Zone District, when prior to the issuance of a building permit an approved preliminary and final subdivision plat, intended for single-family or two-family residential use, has been recorded;
6. A single- and two-family residential use located within a single- and two-family residentially zoned property, upon an already platted lot, and where no development plan exists; and



7. One lot single-family residentially zoned properties located within Hillside Area Overlay Districts that were platted prior to June 7, 1996, and are not part of an existing development plan. However, prior to issuance of building permits for homes on these properties, approved hillside site plan and geologic hazard study are required.
8. Waived by the Manager. The Manager may determine that a development plan is not required based upon his finding that the project does not warrant the review and approval of a development plan.

D. Development Plan Requirements:

1. A concept plan shall be approved prior to the approval of a development plan unless a concept plan is not required per subsection [7.5.501B](#) or C of this part.
2. A concept plan shall be approved prior to the approval of a development plan, unless a development plan is used in lieu of a concept plan per subsection [7.5.501D1](#) of this part, and includes all of the concept plan area.
3. If a development plan is approved for a portion of a concept plan area, the remaining areas of the concept plan shall remain approved and valid.
4. A development plan shall substantially conform to the approved concept plan, if a concept plan exists. If the development plan does not conform to the approved concept plan or if the concept plan approval has expired, a new or amended concept plan must be reviewed and approved in accord with the procedures and criteria outlined in this part.
5. A development plan may be used in lieu of a preliminary plat, if the development plan includes all of the information required for both the development plan and the preliminary plat.
6. The property to be included within the boundaries of the development plan shall be determined by the Manager at the time of preapplication.
7. Changes in the development plan shall be affected only by the approval of an amendment or minor modification to the development plan.

E. Development Plan Review Criteria: A development plan shall be reviewed using the criteria listed below. No development plan shall be approved unless the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the land uses surrounding the site. Alternate and/or additional development plan criteria may be included as a part of an FBZ regulating plan.

1. The details of the use, site design, building location, orientation and exterior building materials are compatible and harmonious with the surrounding neighborhood, buildings and uses, including not-yet-developed uses identified in approved development plans.
2. The development plan substantially complies with any City- adopted plans that are applicable to the site, such as master plans, neighborhood plans, corridor plans, facilities plans, urban renewal plans, or design manuals.

3. The project meets dimensional standards, such as but not limited to, building setbacks, building height and building area set forth in this chapter, or any applicable FBZ or PUD requirement.
4. The project grading, drainage, flood protection, stormwater quality and stormwater mitigation comply with the City's Drainage Criteria Manual and the drainage report prepared for the project on file with the City Engineering Department.
5. The project provides off-street parking as required by this chapter, or a combination of off-street or on-street parking as permitted by this chapter.
6. All parking stalls, drive aisles, loading/unloading areas, and waste removal areas meet the location and dimension standards set forth by this chapter.
7. The project provides landscaped areas, landscape buffers, and landscape materials as set forth in this chapter and the Landscape Design Manual.
8. The project preserves, protects, integrates or mitigates impacts to any identified sensitive or hazardous natural features associated with the site.
9. The building location and site design provide for safe, convenient and ADA-accessible pedestrian, vehicular, bicycle, and applicable transit facilities and circulation.
10. The number, location, dimension and design of driveways to the site substantially comply with the City's Traffic Criteria Manual. To the extent practicable, the project shares driveways and connects to drive aisles of adjoining developments.
11. The project connects to or extends adequate public utilities to the site. As required by Colorado Springs Utilities, the project will extend the utilities to connect to surrounding properties.
12. If necessary to address increased impacts on existing roadways and intersections, the project includes roadway and intersection improvements to provide for safe and efficient movement of multi-modal traffic, pedestrians and emergency vehicles in accordance with the City's Traffic Criteria Manual, public safety needs for ingress and egress and a City accepted traffic impact study, if required, prepared for the project.
13. Significant off-site impacts reasonably anticipated as a result of the project are mitigated or offset to the extent proportional and practicable. Impacts may include, but are not limited to light, odor and noise. (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 02-64; Ord. 03-74; Ord. 03-157; Ord. 09-50; Ord. 09-78; Ord. 12-72; Ord. 18-2)

### **7.5.503: CONCEPT AND DEVELOPMENT PLAN APPLICATION REVIEW**

#### **PROCEDURES:**

##### A. Reviewing Authorities:

1. Whenever a concept plan or development plan is required with an application for the establishment or change of zone district, the applications shall be reviewed concurrently by both the Planning Commission and the City Council.

2. Whenever a development plan is required with an application for a use variance or conditional use, the applications shall be reviewed by the Planning Commission.
3. All other concept plans, development plans and associated amendments shall be reviewed administratively by the Department.
4. A concept plan, development plan or associated amendment may be referred to the Planning Commission at the discretion of the Manager.
5. Whenever a development plan proposes the removal of residential dwellings with rents below the U.S. Department of Housing and Urban Development's fair market rate, the project shall be forwarded to the City's Community Development Division.

B. Application: An application for a concept plan, development plan or amendment to either shall be filed in a manner consistent with the requirements contained in part 2 of this article. The application shall be reviewed to ensure consistency with the intent, purpose and requirements of this section, the review criteria, the underlying zone district and this Zoning Code.

C. Amendment Requirements: A request to amend or modify an approved concept plan, or development plan shall be filed in accord with the requirements contained in part 2 of this article. All amendments or modifications shall be reviewed to be in compliance with the intent, purpose, and requirements of this section, the underlying zone district and this Zoning Code. Any changes in a concept plan or development plan shall occur only with the approval of an amendment or modification to the plan. All amendments to a concept plan or development plan shall be classified and determined by the Manager as either "major" or "minor" or minor modification in accord with the following characteristics. Minor or major amendments and minor modifications shall be characterized by the following types of proposed changes:

1. Minor Amendments:
  - a. Additions to an existing structure which increases the gross floor area by less than fifteen percent (15%);
  - b. Minor relocation or reorientation of buildings, lot lines and/or easements;
  - c. Relocation of points of access which will improve traffic circulation on adjacent public rights-of-way as determined by the Traffic Engineer;
  - d. Relocation of internal access and circulation;
  - e. Relocation or rearrangement of parking areas;
  - f. Reduction of established square footage and/or density limitations;
  - g. Increase of landscape or building setbacks; and
  - h. Renewal of an expired development plan for which no major design changes to comply with current development standards are necessary.

2. Major Amendments:

- a. Creation of new freestanding buildings;
- b. An increase in gross floor area of the established square footage by fifteen percent (15%) or more;
- c. Major relocation of buildings, lot lines, and/or easements;
- d. Relocation of points of access that are not clear improvements;
- e. Changes to established land uses;
- f. Increase of established building height;
- g. Decrease of required perimeter landscape or building setbacks; and
- h. Renewal of an expired development plan in which major design changes are necessary to comply with current development standards.

3. Minor Modifications: Minor modifications facilitate changes resulting in minimal impact to the overall site or to adjacent properties and generally do not require other agency comments or a public process. "Minor modifications" are defined as:

"Minor modifications" are minor changes that typically are contained to one small area on a plan sheet and can be reasonably reviewed by redlining, including, but not limited to:

- a. Small changes to lighting plans such as the addition or relocation of a pole or wall pack;
- b. Reasonable relocation of a few parking spaces, accessible spaces, aisles and ramps, but not an increase in parking lot area;
- c. Minor retaining wall modifications;
- d. Trash dumpster relocation that does not impact site layout, landscaping or parking area;
- e. Minor relocation or modification to landscaping or the plant schedule, but not the deletion of landscape;
- f. Minor corrections or modifications to plan notes such as clarification of allowed uses;
- g. Small accessory structures such as generators, sheds, video drop boxes and ATMs;
- h. Rooftop equipment or mechanical systems and rooftop screening evaluation;
- i. Minor additions and modifications of sidewalks or relocation of parking areas that do not impact site requirements;
- j. Addition of phase lines for required landscape and specific site improvements; and

- k. Other changes deemed minor by the Manager. (Ord. 94-107; Ord. 01-42; Ord. 02-71; Ord. 03-16; Ord. 09-78; Ord. 12-72; Ord. 18-3)

## **7.5.504: ADDITIONAL CONCEPT AND DEVELOPMENT PLAN REQUIREMENTS AND INFORMATION:**

### A. Phasing Plans:

1. If the applicant wishes to phase the submittal of a development plan for the zoning district or phase the platting and construction of the development, a phasing plan shall be submitted and approved with the concept plan or development plan. A phasing plan would propose a sequence of development and the provision of required public improvements. A phasing plan must be reviewed and approved by all appropriate City departments before a development plan or subdivision plat for a portion of the district may be approved.
2. If a phased project contemplates a disproportionate share of the required mix of uses, open space, required landscaping, recreational facilities or other common amenities to be provided in future phases, some form of assurance is required so that if the future phases are not developed, sufficient mix of uses or common facilities will be provided for the phases actually developed. Suitable assurances in the form of a letter of credit, escrow or recorded agreements by the mortgage holder and/or owner guaranteeing the development of the common amenities and facilities must be submitted before the development plan may be approved.

### B. Subdivision:

1. Subdivision of a site shall comply with the approved concept or development plan where such plan is required. If revisions are required, the plan shall be amended prior to approval of the subdivision plat or replat.
2. An approved concept or development plan may be used to fulfill the requirement of a preliminary plat when all of the information and requirements for both the concept plan or development plan and the preliminary plat are provided.

### C. Expiration:

#### 1. Concept Plan:

- a. A concept plan expires six (6) years after the concept plan's approval date if no development plan for any portion of the concept plan area has been approved. If a development plan is approved and a building constructed or use commenced within any portion of the area of an approved concept plan prior to concept plan expiration, the concept plan shall not expire and thereafter remain valid. Prior to the expiration of a concept plan, two (2) year extensions of the concept plan approval may be authorized by the Manager if a review of the plan shows that no major changes in the City's development standards or in the development pattern of the surrounding properties has occurred.
- b. After a concept plan expires, no development plans may be submitted until a new concept plan has been approved in accord with the procedures and criteria outlined in this part or a new development plan that covers the entire concept plan area thus eliminating the need for a concept plan has been approved. Review of the expired concept plan may be processed as either a minor or major

amendment to the concept plan. Said review procedures shall be based upon the Manager's decision as to whether major or minor design changes need to be made to comply with the then current development standards.

## 2. Development Plan:

- a. A development plan expires six (6) years after the development plan's approval date if no building permit has been issued or the use has not commenced as illustrated on the plan. Prior to the expiration of a development plan, two (2) year extensions of the development plan approval may be authorized by the Manager if a review of the plan shows that no major changes in the City's development standards or in the development pattern of the surrounding properties has occurred.
- b. After a development plan expires, no building permit for new construction may be issued until a new development plan has been reviewed and approved in accord with the criteria and procedures outlined in this part. Review of the expired development plan may be processed as either a minor or major amendment to the development plan. Review procedures shall be based upon the Manager's decision as to whether major or minor amendments need to be made to the development plan to comply with the then current development standards.

### c. Exceptions:

- (1) A development plan shall not expire and thereafter remain valid for a single-family residential subdivision project when a final subdivision plat for all or a portion of the individual lots has been recorded.
- (2) A development plan shall not expire and thereafter remain valid for any development project when public water, sewer, electric and gas utilities and public or private streets, drainage and other public improvements have been installed, constructed, inspected and accepted by the City.
- (3) A development plan shall not expire and thereafter remain valid for a part or portion of the development plan area when that part or portion has been constructed or the use commenced.

D. Reconstruction Of Damaged Buildings With A Previously Approved Development Plan: In the event buildings with a previously approved development plan are damaged or destroyed by fire or other natural causes, the buildings may be rebuilt according to the approved development plan on file with the City. Any necessary building permits must be obtained within six (6) years of the date of destruction. (Ord. 94-107; Ord. 01-42; Ord. 03-157; Ord. 09-78; Ord. 12-72)

## 7.5.505: COMPLIANCE:

All properties subject to an approved development plan shall be developed and maintained in accord with said plan. All new construction, alteration, enlargement or modification of existing structures and changes of land uses must substantially conform to the approved development plan or as amended or as modified.

The concept and development plan is intended to be a planning document only. Approval of this plan does not grant any variances to the adopted Zoning Code and Subdivision Code and does not waive any of the requirements of design as contained in the City of Colorado Springs Subdivision Policy Manual and Public Works Design Manual, including the Traffic Engineering Division Policy and Design Standards Manual. Concept plans and development plans are not to be considered

construction drawings (CDs), which may alter the specific details of the plan. (Ord. 94-107; Ord. 01-42; Ord. 09-78; Ord. 12-72)

## **PART 6 ZONE CHANGE REQUESTS AND ZONING CODE AMENDMENTS**

### **7.5.601: PURPOSE:**

### **7.5.602: APPLICATIONS:**

### **7.5.603: FINDINGS:**

### **7.5.604: MODIFICATION OF REGULATIONS:**

### **7.5.605: PROCEDURE FOR REVIEW:**

#### **7.5.601: PURPOSE:**

The purpose of this part is to provide procedures and criteria for the establishment or change of zone districts and amendments to this Zoning Code. (Ord. 94-107; Ord. 01-42)

#### **7.5.602: APPLICATIONS:**

- A. Amendments To The Text Of This Zoning Code: Amendments to the text of this Zoning Code may be initiated by the Community Development Department, the City Council, Planning Commission, or the Mayor.
- B. Establishment Or Change Of Zone District Boundaries: A proposal for the establishment or change of zone district boundaries may be initiated by the property owner(s) or lessee(s), their agent(s), person(s) who have contracted to purchase the property contingent upon their ability to acquire the necessary permits, the agent(s) of such person(s), City Council, the Planning Commission, a City Council appointed review board in accord with an approved FBZ regulating plan, the Historic Preservation Board, or the Manager of the Community Development Department.
- C. Filing: An application for an amendment to the text of this Zoning Code or the establishment or change of zone district boundaries shall be filed with the Community Development Department in accord with the requirements listed in part 2 of this article. (Ord. 94-107; Ord. 01-42; Ord. 09-80; Ord. 11-19; Ord. 12-24)

#### **7.5.603: FINDINGS:**

- A. Amendments To This Zoning Code: Amendments to the text of this Zoning Code may be approved by the City Council.

B. Establishment Or Change Of Zone District Boundaries: A proposal for the establishment or change of zone district boundaries may be approved by the City Council only if the following findings are made:

1. The action will not be detrimental to the public interest, health, safety, convenience or general welfare.
2. The proposal is consistent with the goals and policies of the Comprehensive Plan.
3. Where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. Master plans that have been classified as implemented do not have to be amended in order to be considered consistent with a zone change request.
4. For MU zone districts the proposal is consistent with any locational criteria for the establishment of the zone district, as stated in article 3, "Land Use Zoning Districts", of this chapter. (Ord. 94-107; Ord. 97-111; Ord. 01-42; Ord. 03-157; Ord. 12-76)

#### **7.5.604: MODIFICATION OF REGULATIONS:**

The Planning Commission or a City Council appointed review board in accord with an approved FBZ regulating plan may recommend and the City Council may require the modification of requirements of any zone district so that the property under consideration may be developed in a reasonable manner and without detriment to the public welfare and interest. (Ord. 94-107; Ord. 01-42; Ord. 12-24)

#### **7.5.605: PROCEDURE FOR REVIEW:**

- A. Preapplication Conference: An application for a zone change request or a Zoning Code amendment requires a preapplication conference with the Community Development Department staff.
- B. Process: An application for an amendment to this Zoning Code or for an establishment or change of zone district boundaries shall be reviewed by the Planning Commission at a public hearing in accord with part 9 of this article. A positive recommendation by the Planning Commission shall be forwarded to the City Council which may refer back to the Planning Commission, affirm, modify, or deny the proposal. A negative vote by the Planning Commission may be appealed to the City Council in conformance with part 9 of this article.
- C. Form Based Zone; Alternative Review Procedures: In a form based zone, the approved regulating plan may provide alternative review procedures. (Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-80; Ord. 12-24)

## **PART 7 CONDITIONAL USES**

### **7.5.701: PURPOSE:**



**7.5.702: APPLICATION AND REVIEW PROCEDURE:**

**7.5.703: HEARINGS AND NOTICE:**

**7.5.704: AUTHORIZATION AND FINDINGS:**

**7.5.705: CONDITIONS OF APPROVAL:**

**7.5.706: AMENDMENTS:**

**7.5.707: EXPIRATION OF APPROVAL:**

**7.5.708: TRANSFERABILITY:**

**7.5.701: PURPOSE:**   

The development and administration of a comprehensive zoning ordinance is based upon the division of the City into zone districts within which districts the use of land and buildings and the bulk and position of buildings and structures in relation to the land are relatively uniform. However, it is recognized that there are occasions when in addition to the principal permitted uses, special uses, because of unique operating and/or physical characteristics may be allowed after careful consideration of their impact upon the neighborhood and the public facilities surrounding their proposed location. These uses shall be referred to as conditional uses. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.5.702: APPLICATION AND REVIEW PROCEDURE:**   

A. Preapplication Conference: An application for a conditional use or conditional use amendment requires a preapplication conference with the Community Development Department staff.

B. Process: An application for a conditional use or an amendment to a conditional use shall be filed in a manner consistent with the requirements contained in part 2 of this article. The application shall be accompanied by a development plan as described in part 5 of this article, reviewed to ensure consistency with the intent, purpose, and requirements of the zone district in which the use will be located, of this part, and of this Zoning Code. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-80)

**7.5.703: HEARINGS AND NOTICE:**   

The application for a conditional use shall be reviewed by the Planning Commission at a public hearing. The provisions for the public hearing, the notice, and the appeals of the Planning Commission decision shall be in accord with part 9 of this article. (Ord. 94-107; Ord. 01-42)

**7.5.704: AUTHORIZATION AND FINDINGS:**   

The Planning Commission may approve and/or modify a conditional use application in whole or in part, with or without conditions, only if all three (3) of the following findings are made:

A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.

B. Intent Of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.

C. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.

The approved conditional use and development plan shall be binding on the property until an amendment is approved changing the use of the property. Except as otherwise recommended by the Planning Commission, the development of a conditional use shall conform to the applicable regulations of the district in which it is to be located. (Ord. 80-131; Ord. 82-247; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 12-74)

#### **7.5.705: CONDITIONS OF APPROVAL:**

In approving a conditional use, Land Use Review or City staff may recommend or the City Planning Commission may impose special conditions upon the subject property that are necessary to alleviate or mitigate any potentially significant adverse impacts on other property in the neighborhood, and to carry out the stated purposes of the Comprehensive Plan and this Code. The City Planning Commission may also be authorized to impose time limits on conditional uses and if necessary require regularly scheduled reviews of approved conditional uses.

Any person or persons using property under a conditional use shall operate such use in compliance with all terms of the approval of that conditional use. All stipulations submitted as part of the conditional use application and all conditions imposed by the Commission shall be maintained in perpetuity with the conditional use. (Ord. 94-107; Ord. 01-42; Ord. 09-76; Ord. 12-74)

#### **7.5.706: AMENDMENTS:**

Minor and major amendments to conditional use development plans may be processed administratively. Amendments to conditional use development plans for a new conditional use shall be reviewed by the Planning Commission. The criteria as set forth in part 5 of this article shall be used to categorize modification to conditional use development plans as either major or minor amendments. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-76; Ord. 12-74)

#### **7.5.707: EXPIRATION OF APPROVAL:**

An approved conditional use and the accompanying development plan will expire if:

- A. General: Failure of an applicant to begin operation or to apply for a building and commence construction with regard to the conditional use within four (4) years of receiving approval of the conditional use shall automatically render the approval null and void. Prior to the expiration of a conditional use, a one year extension of the approval of the conditional use may be approved by the Manager after a review of the use and the development plan shows that no major changes to the site design are required.
- B. Abandonment: If a legally established conditional use is abandoned or discontinued for a period of one consecutive year or more, then the conditional use shall automatically expire. Prior to the expiration of the conditional use due to discontinuance, the property owner may request a one year extension of the conditional use. The Manager may grant a one year extension after a review of the intent to reestablish the approved use and determining that there are no changes to the development plan or any conditions approved for the property.

C. Noncompliance: If a conditional use is not in compliance with the terms of the approval, the conditional use shall be subject to enforcement pursuant to part 10 of this article.

After a conditional use expires, no building permit or certificates of occupancy may be issued for that use until a new conditional use application has been reviewed and approved in accord with the criteria and procedures outlined in this part. (Ord. 12-74)

**7.5.708: TRANSFERABILITY:**  

A conditional use is not affected by changes in tenancy, ownership, or management of the property. The approved conditional use shall be attached to, and run with the land for which it is granted, unless otherwise conditioned. (Ord. 12-74)

## **PART 8 VARIANCES**

**7.5.801: PURPOSE:**

**7.5.802: NONUSE VARIANCES:**

**7.5.803: USE VARIANCES:**

**7.5.804: HEARINGS AND NOTICE:**

**7.5.805: CONDITIONS OF APPROVAL:**

**7.5.806: COMPREHENSIVE PLAN:**

**7.5.807: EXPIRATION AND TERMINATION OF RIGHT:**

**7.5.801: PURPOSE:**  

In establishing the provisions of this part, the City Council hereby finds and determines that there may be exceptional or extraordinary circumstances or conditions which are applicable to properties within the City, or to the intended uses of properties within the City that do not generally apply to the property or class of uses in the same zone district, and such that denial of an application for relief would result in an inability to reasonably utilize property. Therefore, it is necessary to provide for such extraordinary relief in the form of nonuse variances and use variances. In reviewing such applications for variances, the burden shall be upon the applicant to meet the criteria set forth in this part. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.5.802: NONUSE VARIANCES:**  

A. Authorization: Subject to the requirements of this part and this Zoning Code, nonuse variances are hereby authorized.

B. Criteria For Granting: The following criteria must be met in order for any nonuse variance to be granted:

1. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and

2. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief; and
3. That the granting of the variance will not have an adverse impact upon surrounding properties.

Nonuse variances to the parking and storage regulations (article 4, part 2 of this chapter) and to the sexually oriented business separation requirements (part 13 of this article) are subject to additional criteria set forth in subsections C and D of this section.

#### C. Additional Criteria For Sexually Oriented Business Separation Requirements<sup>1</sup>:

1. Criteria: A variance to the separation requirements set forth in this Zoning Code may be granted if the presumptions in this Zoning Code are overcome by proof that the establishment of a sexually oriented business within one thousand feet (1,000') of another sexually oriented business establishment, or establishment of a sexually oriented business within one thousand feet (1,000') of any residential zoning district, residential use, park, church or educational institution, as applicable, will not have a deleterious effect on surrounding residential and business areas by creating blight, downgrading of property values or tending to cause an increase in crime.
2. Conditions: In granting a variance to the distance requirements set forth in this Zoning Code the Planning Commission or City Council may impose reasonable conditions relating to hours of operation, screening, buffering and signage as long as the conditions imposed are not designed to prohibit the dissemination of protected materials under the first amendment to the United States Constitution.

#### D. Additional Criteria And Guidelines For Regulations Of Vehicle Parking And Storage<sup>2</sup>:

1. Criteria: In addition to the criteria listed in subsection B of this section, nonuse variances to the regulations regarding vehicle parking and storage listed in this Zoning Code must also meet the following criteria:
  - a. The proposed location of the vehicle will not create a pedestrian or vehicular safety problem.
  - b. The granting of the variance will not have an adverse impact upon the surrounding properties or neighborhood.
2. Guidelines For Review Of Variances: As a guide to applying the criteria listed in this subsection, when applicable, the fact finder may, but is not required to, consider any or all of the following circumstances which have been established by the evidence in determining whether the applicable criteria have been met:
  - a. Pedestrian Or Vehicular Safety: The following traffic related factors shall be considered:
    - (1) The speed limit.
    - (2) Vehicular traffic volume.
    - (3) Pedestrian traffic volume.

(4) Sight distance.

(5) Physical design characteristics of the sidewalk and street.

b. No Adverse Impact:

(1) The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding property values and neighborhood character.

(2) The granting of a variance shall not be inconsistent with any plans adopted by the City.

(3) The granting of the variance shall not weaken the general purpose of this zoning ordinance or its regulations.

(4) The variance, if granted, shall only be to the extent necessary to afford a reasonable use of the property.

(5) Visual barriers may be existing on site, or proposed by the applicant, such as vegetation, opaque walls or fencing which have a positive effect toward screening of the vehicle.

E. Guidelines For Review Of A Nonuse Variance: As a guide to applying any of the criteria for nonuse variance applications listed in subsection B, C, or D of this section, when applicable, the fact finder may, but is not required to, consider any or all of the following circumstances which have been established by the evidence in determining whether the applicable criteria have been met:

1. Extraordinary Or Exceptional Physical Conditions:

a. The physical conditions of the property shall not be conditions general to the neighborhood or surrounding properties.

b. The unique physical conditions of the property may be its size, shape, location, topography, soils; or

c. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions; or

d. The unique physical conditions may be certain on site or off site environmental features which may positively or negatively affect the property in question, including, but not limited to, adjacent land uses, traffic, noise, views and location of significant natural, architectural or historic features.

2. No Reasonable Use:

a. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations.

b. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district.

- c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.
- d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.
- e. Knowledge, or lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property.

3. No Adverse Impact:

- a. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties.
- b. The granting of a variance shall not be inconsistent with any plans adopted by the City.
- c. The granting of a variance shall not weaken the general purpose of this Zoning Code or its regulations.
- d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property.

F. Application And Process: An application for a nonuse variance shall include the following:

- 1. A preapplication conference with the Community Development Department staff prior to submittal of the application,
- 2. An application for a nonuse variance shall be filed with the Community Development Department in a manner consistent with the requirements contained in part 2 of this article and include all of the requirements noted in the development application and checklist, including a site plan and other associated documentation as required, and
- 3. The application shall be reviewed and an administrative decision rendered by Community Development Department staff unless the nonuse variance is submitted with another development application that is required to be decided upon by Planning Commission. Staff may refer a nonuse variance application to the Planning Commission if warranted. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-80; Ord. 12-76)

**7.5.803: USE VARIANCES:**  

A. Authorization: Subject to the requirements of this part and this Zoning Code, use variances are hereby authorized.

B. Criteria For Granting A Use Variance: The following criteria must be met in order for a use variance to be granted:

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the petition would result in undue property loss; and

2. That such variance is necessary for the preservation and enjoyment of a property right of the petitioner; and also
3. That such variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property.

C. Use Variance For A Sexually Oriented Business: When an application is made to allow a sexually oriented business establishment in a zone other than a C-5, C-6, PBC or M-2 zone, the criteria to determine whether or not that use variance shall be granted is the criteria set forth in this section.

D. Application And Process:

1. Preapplication Conference: An application for a use variance or a major amendment to a use variance requires a preapplication conference with the Community Development Department staff.
2. Process: An application for a use variance or an amendment to it shall be filed with the Community Development Department in a manner consistent with the requirements contained in this Zoning Code. The application shall be accompanied by a development plan as described in this Zoning Code. All requested amendments to the originally approved use variance development plan shall be processed in the same manner as the original use variance request.

E. Amendment: An amendment to an approved use variance development plan shall be classified as either a major or minor amendment or a minor modification in accord with section [7.5.503](#) of this article. The renewal of an expired approved use variance development plan shall be processed as a major amendment. Major or minor amendments or minor modifications to an approved use variance development shall be reviewed and an administrative decision rendered by the Community Development Department unless a condition of the approval requires that the use variance development plan be heard and decided upon by the Planning Commission. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-80; Ord. 12-76)

**7.5.804: HEARINGS AND NOTICE:**  

The application for a use variance shall be reviewed by the Planning Commission at a public hearing. The application for a nonuse variance shall be reviewed by the Manager. A use or nonuse variance shall be heard by the Planning Commission at a public hearing if it is submitted with an item to be heard by the Planning Commission. The provisions for the public hearing and notice shall be in accord with part 9 of this article. (Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-76)

**7.5.805: CONDITIONS OF APPROVAL:**  

Special conditions may be imposed upon any variance approval in order to alleviate or mitigate potential adverse impacts. Conditions must relate to the property and/or vehicle and may relate to specific persons or organizations which have a direct association with the use of the property as contemplated by the requested variance. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.5.806: COMPREHENSIVE PLAN:**  

The Comprehensive Plan and other adopted plans, if applicable, shall be considered and addressed in applying the provisions of this part. (Ord. 85-136; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.5.807: EXPIRATION AND TERMINATION OF RIGHT:**

A. Expiration: A nonuse or use variance together with the accompanying site plan granted pursuant to this part shall expire within twelve (12) months from the date of final approval if "action" is not taken within that time. Prior to the expiration of a nonuse or use variance, a twelve (12) month extension of the approval may be granted by the Manager upon demonstration of good cause. For purposes of this subsection, "action" means obtaining a building permit pursuant to the granting of the variance, or if a building permit is not required, the right which is granted pursuant to the variance is put to use pursuant to the variance.

A nonuse or use variance associated with a concept plan, development plan or conditional use shall run concurrently with the plan and shall expire at the same time of the applicable plan expiration date.

B. Termination Of Right: Except as provided in subsection A of this section, discontinuance of the exercise of any right granted by any variance for a continuous period of twelve (12) months shall terminate such right and invalidate the associated, approved site plan or development plan. Upon termination of the use variance right, the property affected thereby shall be subject to all provisions and regulations of this Zoning Code applicable to the principal permitted uses within the zone in which such property is classified.

C. Reconstruction Of Damaged Buildings With A Previously Approved Nonuse Or Use Variance Site Plan Or Development Plan: In the event buildings with a previously approved nonuse or use variance site plan or development plan are damaged or destroyed by fire or other natural causes, the buildings may be rebuilt according to the approved site plan or development plan on file with the City. All necessary building permits must be obtained within four (4) years of the date of destruction, unless an extension has been approved by the Manager due to extraordinary circumstances. (Ord. 86-214; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-76)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) See part 13 of this article.

[Footnote 2:](#) See article 4, part 2 of this chapter.

## **PART 9 NOTICE, HEARINGS AND APPEALS**

**[7.5.901: PURPOSE:](#)**

**[7.5.902: PUBLIC NOTICE:](#)**

**[7.5.903: HEARINGS:](#)**

**[7.5.904: CONDITIONS AND MODIFICATIONS OF REGULATIONS:](#)**

**[7.5.905: DECISIONS:](#)**

**[7.5.906: APPEALS:](#)**



## **7.5.907: LIMITATION ON FURTHER APPLICATION:**

### **7.5.901: PURPOSE:**

The purpose of this part is to provide the procedures for public notice, hearings and appeals. (Ord. 84-117; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16)

### **7.5.902: PUBLIC NOTICE:**

A. Purpose: The purpose of this section is to provide the procedures for public notice. Public notice serves to inform vicinity property owners, neighborhood and homeowners' associations, and the community of pending development projects and the date, time and place of public hearings and appeals regarding development projects.

It is in the City's and applicant's interest to seek and encourage citizen input regarding development projects and to identify possible impacts and mitigation as early in the development review process as possible. Consistent application of public notice requirements fosters trust and reliability in the review process. This section establishes uniform standards for public notice requirements.

B. Public Notice Is Required: Public notice may be provided during the following three (3) stages of development project review, subject to the following provisions:

1. Preapplication: During this stage of the review process, public notice is optional and may be waived. The Manager shall determine whether a development project warrants public notice prior to application submittal based upon the scope and potential impact to the surrounding area. Public notice may include: posting, mailed notifications and/or meetings. The purpose of this type of notice is to solicit public comments regarding the preliminary development project proposed for the property.
2. Internal review: During this stage of the review process, public notice shall generally be required at the discretion of the Manager who shall determine whether a development project warrants internal review notice based upon the scope and potential impact to the surrounding area. Public notice may include: posting, mailed notifications, and/or meetings. The purpose of this type of public notice is to solicit public comments regarding the specific development project proposed for the property.
3. Final disposition: During this stage of the review process, public notice shall be required only if public hearing(s) are to be conducted. Public notice for public hearings shall include: posting and publication. The purpose of the public notice is to provide notice of the specific time, date and location of the public hearing on the proposed development project. No additional notice is required if the Planning Commission or City Council adjourns the hearing to a date certain.

C. Methods And Standards Of Public Notice: The following methods and standards for public notice may be used by the City to notify the public of proposed development projects, when required:

1. Publication: When required, a notice of a public hearing shall be published in a newspaper or newspapers in the City of Colorado Springs as designated for that purpose by the City Council. Notice shall be published not more than thirty (30) days nor less than ten (10) days prior to the date

of the public hearing. The purpose of the publication is to provide general public notice of the public hearing.

2. Posting: When required, a public notice signage poster shall be placed upon the property under development consideration. The purpose of the posting is to provide visual notice to the owners of surrounding properties and the general public who may pass by the site of the development proposal.
  - a. The property shall be posted:
    - (1) For a minimum of ten (10) days after an initial preapplication conference with the City.
    - (2) For a minimum of ten (10) days after formal submittal of the development application.
    - (3) For a minimum of ten (10) days prior to the Planning Commission or City Council public hearing regarding a proposed development project.
  - b. All signage shall be placed along the perimeter of the subject property in locations which are visible from adjacent public ways. Posting may be outside the actual boundary of the project if in the opinion of the Manager the alternative posting location offers more visibility for public notice.
3. Mailed Public Notification: When required, a public notification letter may be mailed to vicinity property owners and vicinity neighborhood or homeowners' associations. The purpose of the mailed notification is to provide written notice to the owners of properties and associations in the vicinity of the proposed development.
  - a. The mailed notification shall be sent:
    - (1) A minimum of ten (10) days prior to the Planning Commission or City Council public hearing regarding a proposed development project.
    - (2) To property owners and associations directly adjacent to the proposed project, within one hundred fifty feet (150'), within five hundred feet (500') or within one thousand feet (1,000') of the perimeter of the proposed project site, as determined appropriate by the Manager.
  - b. The geographic limit of the mailed notification letters shall be determined by the Manager based upon the scope of the potential external impacts of the proposed project.
4. Neighborhood Meetings: An optional method of notice may be to provide a neighborhood meeting to discuss proposed development projects. The purpose of a neighborhood meeting is to allow neighborhood residents to communicate directly with the City and the development applicant regarding any issues, concerns or comments that they might have regarding the proposed development project. Neighborhood meeting(s) may be held during the preapplication stage, internal review stage and/or final disposition stage at the discretion of the Manager.
5. E-Mail Notification: An optional method of public notice is to provide e-mail notifications. E-mail notifications shall not be required, but may be used only to facilitate quick and direct communication to affected property owners and neighborhood and homeowners' associations. No standards for e-mail notifications shall be prescribed. E-mailed notice may be used at the discretion of the review planner when deemed appropriate. (Ord. 81-131; Ord. 85-237; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-76)

### **7.5.903: HEARINGS:**

Hearings as provided for in this Zoning Code shall be held at the date, time, and place for which public notice is required in this part. A hearing may be continued provided that prior to the adjournment or recess of the hearing, a clear announcement is made specifying the date, time, and place to which said hearing will be continued. Any person may present evidence or testimony during a hearing.

Any action of the Planning Commission in connection with this Zoning Code shall be by a majority vote at a meeting attended by at least five (5) members. (Ord. 84-117; Ord. 85-11; Ord. 85-272; Ord. 86-214; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 01-164; Ord. 03-16)

### **7.5.904: CONDITIONS AND MODIFICATIONS OF REGULATIONS:**

A. Manager: The Manager may require such conditions for any matter which are reasonable and necessary in order to further the purpose of this Code.

B. Planning Commission: The Planning Commission may recommend and the City Council may require conditions which are necessary and reasonable in order to further the purpose of this Code. Conditions may include, but are not limited to, setbacks from adjacent uses or property lines, landscaping, screening, placement and size of signs, placement and amount of parking, and access restrictions.

C. FBZ Review Board: A City Council appointed review board may recommend and the City Council may require conditions which are necessary and reasonable in order to further the purpose of this Code and the applicable FBZ regulating plan. Conditions may include, but are not limited to, setbacks from adjacent uses or property lines, landscaping, screening, placement and size of signs, placement and amount of parking and access restrictions.

D. Violations: Violations of conditions, when made a part of the terms under which any matter is decided or approved, shall be deemed a violation of this Zoning Code. (Ord. 94-107; Ord. 01-42; Ord. 01-164; Ord. 03-16; Ord. 12-24)

### **7.5.905: DECISIONS:**

A. Manager: The Manager's decision shall be deemed final and shall set forth the finding of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety and welfare. The failure to appeal the decision of the Manager within the ten (10) day period shall be deemed to be a waiver of the applicant's or a party in interest's right to appeal to the courts under rule 106 of the Colorado Rules of Civil Procedure for failure to exhaust administrative remedies.

B. Planning Commission Or FBZ Review Board: After receiving testimony, the Planning Commission or an FBZ Review Board shall announce its decision at the conclusion of the public hearing. The decision shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety, and welfare.

The failure to appeal the decision of the Planning Commission or an FBZ Review Board within the ten (10) day period shall be deemed to be a waiver of the applicant's or a party in interest's right to appeal to the courts under rule 106 of the Colorado Rules of Civil Procedure for failure to exhaust administrative remedies.

The decision of the Planning Commission or an FBZ Review Board regarding matters listed in section [7.5.103](#) of this article shall be final agency action unless an appeal to City Council is filed pursuant to this Zoning Code. The minutes of the Planning Commission or an FBZ Review Board for matters listed in section [7.5.103](#) of this article shall be forwarded to the City Council for final action.

- C. City Council: Without further public notice or hearing, the City Council may refer back to the Planning Commission or an FBZ Review Board, affirm, reverse, or modify any decision of the Planning Commission or an FBZ Review Board which appears on the City Council agenda as an item which has not been appealed in accord with this Zoning Code.

In all matters before the City Council relating to the actions of the Planning Commission or an FBZ Review Board, the entire file of the Community Development Department pertaining to the matters shall be made a part of the record of the City Council. The file shall include, but not be limited to, the minutes from Planning Commission or an FBZ Review Board minutes, maps, drawings, departmental reports, and applications.

- D. Date Of Final Decision: The date of final administrative decision shall be the date of the approval or denial letter on the application. The date of final decision of the Planning Commission, or an FBZ Review Board or the City Council shall be the date of the final action taken. If the Planning Commission or an FBZ Review Board or City Council decision is subject to conditions, the date of final decision shall be the date of the Commission's, an FBZ Review Board's or Council's final approval and will be so noted on the permit, application approval letter and/or plan once the conditions have been met. (Ord. 84-117; Ord. 85-11; Ord. 85-272; Ord. 86-214; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 09-76; Ord. 09-80; Ord. 12-24)

## **7.5.906: APPEALS:**

### A. Appeals Of Administrative Decisions:

1. Scheduling Appeals: Any person aggrieved by an appealable administrative decision made by the Manager may file a formal appeal application with the Department within ten (10) days from the date of the final decision. The Department shall place the appeal on the agenda of the next regularly scheduled meeting of the Planning Commission or an FBZ Review Board occurring a minimum of twenty (20) days and a maximum of forty eight (48) days thereafter. After a public hearing, the Planning Commission or an FBZ Review Board shall have the power to affirm, reverse, or modify these decisions.
2. Decisions Appealable To Planning Commission: The following administrative decisions are appealable to the Planning Commission:
  - a. Appeals from all notice and orders alleging violations to the following sections:
    - (1) Chapter 6, article 3 of this Code (solid waste disposal; public health and sanitation);

(2) Articles 2, 3, and 4 of this chapter, and this article (zoning);

(3) Articles 7 and 8 of this chapter (subdivision).

b. Appeals from administrative decisions relating to the following sections of articles 2 and 3 of this chapter and this article (zoning):

(1) Section [7.2.108](#) of this chapter (similar use determinations);

(2) Section [7.3.504](#) of this chapter (hillside site grading plan);

(3) Part 3 of this article (site plan);

(4) Part 11 of this article (administrative relief);

(5) Part 12 of this article (nonconforming uses);

(6) Part 13 of this article (sexually oriented business permits);

(7) Part 14 of this article (temporary use permits);

(8) Part 15 of this article (home occupation permits);

(9) Part 8 of this article (nonuse variance).

(10) Part 17 of this article (short term rental unit permits).

c. Appeals from administrative decisions relating to the following sections of [article 7 of this chapter](#) (subdivision) and this article (subdivision minor administrative procedures):

(1) Section [7.7.501](#) of this chapter (property boundary amendments);

(2) Section [7.7.502](#) of this chapter (preservation area boundary amendments);

(3) Section [7.7.504](#) of this chapter (issuance of building permits to unplatted lands);

(4) Section [7.7.505](#) of this chapter (waiver of replat);

(5) Section [7.7.304](#) of this chapter (modifications).

d. Appeals from administrative decisions relating to the following sections of [article 4 of this chapter](#) (site development standards), this article (zoning) and [article 7 of this chapter](#) (Subdivision Code):

(1) Section [7.5.501](#) of this article (concept plan or concept plan amendment);

(2) Section [7.5.502](#) of this article (development plan or development plan amendment);

(3) Section [7.5.503](#) of this article (minor amendment to a concept, development, or conditional use plan);

- (4) Section [7.4.308](#) of this chapter (final landscape plan or landscape plan amendment);
  - (5) Article 7, parts 2 and 3 of this chapter (preliminary or final subdivision plat).
3. Decisions Appealable To FBZ Review Board: Administrative decisions are appealable to an FBZ Review Board in accord with an approved FBZ regulating plan.
4. Criteria For Review Of An Appeal Of An Administrative Decision: In the written notice, the appellant must substantiate the following:
- a. Identify the explicit ordinance provisions which are in dispute.
  - b. Show that the administrative decision is incorrect because of one or more of the following:
    - (1) It was against the express language of this zoning ordinance, or
    - (2) It was against the express intent of this zoning ordinance, or
    - (3) It is unreasonable, or
    - (4) It is erroneous, or
    - (5) It is clearly contrary to law.
  - c. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.
5. Stays Of Administrative Decisions: A perfected appeal shall operate as a stay of the administrative decision unless the Manager certifies in writing that a stay would cause or result in an imminent hazard to the public health, safety, and welfare or the violation is of such a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site. The time frame in which violations of this nature operate is such that a stay of proceedings will make the enforcement process ineffective. Examples of short term violations include, but are not limited to, temporary vendors, promotional events, and temporary signs.
6. Fees: Any person pursuing an appeal pursuant to this subsection A shall be responsible for the payment of all fees and for the completion of all forms which may be prescribed by the Manager. Failure to pay any required fee or to properly complete any required form shall be deemed a waiver of the right to appeal.

**B. Appeals Of Planning Commission, An FBZ Review Board And Historic Preservation Board Decisions:**

1. Notice Of Appeal: Any person may appeal to the City Council any action of the Planning Commission or an FBZ Review Board or Historic Preservation Board in relation to this Zoning Code, where the action was adverse to the person by filing with the City Clerk a written notice of appeal. The notice of appeal shall be filed with the City Clerk no later than ten (10) days after the action from which appeal is taken, and shall briefly state the grounds upon which the appeal is based.

2. Action And Procedure By The City Council: Upon receipt of the notice of appeal required by this subsection B, the City Clerk shall schedule a public hearing before the City Council at the next regular meeting of the City Council occurring a minimum of twenty (20) days after receipt. The City Council shall hold a public hearing on appeals from the Planning Commission, an FBZ Review Board or Historic Preservation Board upon the date so scheduled or upon the date to which the same may be postponed or continued. Before the public hearing is commenced, the City Council may entertain a motion to uphold the action of the Planning Commission, an FBZ Review Board or Historic Preservation Board or refer the matter back to the Planning Commission, an FBZ Review Board or Historic Preservation Board for further consideration and recommendation.
3. Postponement Of Items On Appeal To The City Council: As a matter of course, any person may postpone the first scheduled Council hearing or consideration of an appeal from a decision of the Planning Commission, an FBZ Review Board or Historic Preservation Board, made in accord with this subsection, to the next following regular Council meeting. Request for any additional postponement shall be only for good cause shown to and found by the City Council. If new or additional evidence is set forth as the grounds for a request for a postponement, the appeal may be referred to the Planning Commission, an FBZ Review Board or Historic Preservation Board for further hearing and recommendations.
4. City Council's Powers Upon Appeal: The City Council shall have the power to refer any matter appealed back to the Planning Commission, an FBZ Review Board or Historic Preservation Board for further consideration or Council may affirm, reverse or modify the action of the Planning Commission, an FBZ Review Board or Historic Preservation Board. City Council may hear the appeal de novo, or may limit the hearing to matters raised on appeal.
5. Failure To Appeal: The failure to appeal the decision of the Planning Commission, or an FBZ Review Board or Historic Preservation Board within the ten (10) day period shall be deemed to be a waiver of the applicant's or a party in interest's right to appeal to the courts under rule 106 of the Colorado Rules of Civil Procedure for failure to exhaust administrative remedies.
6. Final Decision; Court Review: On such appeals, the decision of the City Council shall be final agency action, and shall be subject to review by the courts pursuant to applicable rules and statutes, unless the matter is remanded to the Planning Commission, or an FBZ Review Board or Historic Preservation Board.
7. Filing Fee: The filing fee shall be borne by the appellant. (Ord. 80-131; Ord. 84-159; Ord. 86-66; Ord. 88-190; Ord. 89-7; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 01-127; Ord. 01-164; Ord. 03-16; Ord. 03-216; Ord. 04-280; Ord. 07-35; Ord. 09-76; Ord. 12-24; Ord. 17-2; Ord. 18-112)

#### **7.5.907: LIMITATION ON FURTHER APPLICATION:**

Whenever a change of zone, a conditional use, a use variance, or a nonuse variance has been finally disapproved by the Planning Commission, or an FBZ Review Board or City Council, no further application shall be made for the same change of zone, conditional use, use variance, or nonuse variance affecting the same property, or a part thereof, for a period of twelve (12) months from the date of the final action of disapproval. The applicant for said change of zone, conditional use, use variance, or nonuse variance may apply to the Manager for an exception to this limitation by specifying and showing that because of a change of circumstances, the existing zoning precludes the use of the property for any purpose to which it may be reasonably adapted, and that because of a change in circumstances, the landowner is deprived of all reasonable uses of the land and that the land is not susceptible to any reasonable use under the existing zoning. Any decision by the

Manager may be appealed in accord with this part. (Ord. 94-107; Ord. 01-42; Ord. 01-164; Ord. 03-16; Ord. 12-24)

## **PART 10 ZONING ENFORCEMENT**

### **7.5.1001: PURPOSE:**

### **7.5.1002: COMPREHENSIVE ZONING ENFORCEMENT PROCESS:**

### **7.5.1003: AGREEMENTS TO ABATE:**

### **7.5.1004: RIGHT OF ENTRY:**

### **7.5.1005: REMEDIES:**

### **7.5.1006: NOTICE AND ORDER:**

### **7.5.1007: APPEALS:**

### **7.5.1008: FAILURE TO COMPLY WITH NOTICE AND ORDER OR AGREEMENT TO ABATE:**

### **7.5.1009: LIEN ASSESSMENT:**

### **7.5.1010: EMERGENCY ABATEMENT ORDER:**

### **7.5.1011: PROCEDURES AND GUIDELINES:**

### **7.5.1012: SPECIAL INVESTIGATOR:**

### **7.5.1001: PURPOSE:**

In establishing a comprehensive zoning enforcement program, the City Council recognizes that zoning enforcement is a means of effectuating compliance with the land development process within the City of Colorado Springs. The legislative intent of comprehensive, long range and current planning controls can be implemented only by land use development activities in conformance with these controls. Improper or illegal conditions or development which is allowed to exist undermines the intent and efforts of these land use processes. The City Council hereby determines that a comprehensive zoning enforcement process is necessary and desirable to protect the public health, safety and welfare. The objectives of this comprehensive zoning enforcement process include reduction of the number of zoning violations; abatement of violations in a timely and efficient manner; protection for all citizens from zoning violations; and establishment of a fair process to abate violations. To achieve these objectives, the City Council recognizes and adopts the following general techniques or guidelines: provide consistency in the administration, interpretation and enforcement of the zoning and subdivision ordinances; recognize inherent differences in many types of zoning violations; develop a set of standard procedures for abating each type of violation based upon their risk of harm to the public health, safety and welfare; prioritize the activities of the zoning enforcement staff; and establish a greater communication and understanding of zoning and zoning enforcement within the community. (Ord. 86-66; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.5.1002: COMPREHENSIVE ZONING ENFORCEMENT PROCESS:**

In order to effectuate the above goals and objectives with respect to zoning enforcement, the City Council hereby determines that a comprehensive zoning enforcement process is necessary and desirable. A comprehensive system of zoning enforcement will provide identification and reporting capabilities which capitalize on the advantages of each individual method which may be utilized to



abate zoning violations. This comprehensive zoning enforcement process offers the best opportunity to achieve the City's goals and objectives for zoning enforcement. The Manager is hereby authorized to meet the goals and objectives of this part through the use of zoning enforcement that shall include, but not be limited to, the complaint system of reporting zoning violations by citizens; initiation of complaints by zoning inspectors or other City officials; and systematic or programmatic Code enforcement programs. No systematic or programmatic Code enforcement program shall be initiated for a neighborhood or area within the City of Colorado Springs without the prior approval of the Manager. (Ord. 86-66; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 09-80)

#### **7.5.1003: AGREEMENTS TO ABATE:**

The Manager shall have authority to enter into agreements with violators for the abatement of zoning violations. The procedures and the form of agreements to abate shall be established pursuant to the requirements of this part. (Ord. 86-66; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 09-80)

#### **7.5.1004: RIGHT OF ENTRY:**

- A. Subject to the provisions of subsection B of this section, the Manager shall have the right to enter upon any premises at any reasonable time for the purpose of enforcing this Zoning Code and the Subdivision Code of this chapter, including abatement of violations.
  
- B. In the event that the owner or occupant of any premises located within the City refuses to permit entry to the Manager when entry is sought pursuant to this section, or should permission to enter the premises otherwise not be obtainable from the owner or occupant, the Manager may make application to any Judge of the Municipal Court for the issuance of a warrant to inspect the premises or a warrant to search for and/or seize property located upon the premises. The sworn application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of the requirements of this Zoning Code or the Subdivision Code of this chapter exists on the premises, or that a violation in fact exists and must be abated. Any warrant issued shall command the owner or occupant to permit entry to the Manager for the purposes stated. (Ord. 86-66; Ord. 88-190; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 09-80)

#### **7.5.1005: REMEDIES:**

The Manager shall have, but not by way of limitation, the following remedies available with respect to abatement of zoning violations:

- A. No Action: After careful consideration of the facts and circumstances, the Manager may authorize no action be taken on a complaint of an alleged zoning violation.
  
- B. Informal Contact: The Manager shall have the authority to effectuate the abatement of zoning violations through informal meetings or conversations.
  
- C. Agreement To Abate: The Manager may enter into an agreement with a violator whereby the violator agrees to abate the violation within a certain time based upon certain conditions within

the agreement. Should the violator not abide by the terms and conditions of the agreement to abate, the Manager may proceed with abatement as authorized in this section.

- D. Notice And Order: The Manager may issue a notice and order, ordering the cessation of an illegal condition within a specified period of time based upon the nature of the violation. Should the violator not comply with the notice and order within the period of time specified, or fail to appeal the notice and order within the applicable time period, the Manager may proceed with abatement as authorized in section [7.5.1008](#) of this part.
- E. Direct Abatement: The Manager may pursue direct abatement for removal of any zoning violation in conjunction with a search and seizure warrant issued by Municipal Court in accord with subsection [7.5.1004B](#) of this part.
- F. Civil Action: The Manager, with the concurrence of the Mayor, may request the City Attorney to initiate a civil action in the District Court for injunctive relief to abate violations of this Zoning Code and the Subdivision Code of this chapter.
- G. Reinspection Fees: The Manager may charge reinspection fees for zoning violations in accord with subsection [7.5.1008C](#) of this part.
- H. Criminal Prosecution: The Manager may pursue the issuance of a summons and complaint in accord with subsection [7.5.1008E](#) of this part.
- I. Summary Abatement: After consultation with the City Attorney, the Manager shall have the power to authorize the removal of an item from private property that may create an imminent hazard to the public health, safety and welfare.
- J. Additional Remedies: Remedies provided in this section shall be cumulative and in addition to any other remedies which may be available to the Manager. Nothing contained in this section shall be construed to preclude the Manager from seeking any other remedies in addition to, or in lieu of the remedies granted in this section. (Ord. 86-66; Ord. 88-190; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 09-80; Ord. 11-19)

#### **7.5.1006: NOTICE AND ORDER:**

Whenever abatement proceedings are commenced by the filing of a notice and order the notice and order shall:

- A. Be in writing.
- B. Be personally served whenever feasible on the owner, agent of the owner, other persons with an interest in the property, and/or occupant of the premises, as applicable. When personal service

is not feasible, the notice and order must either be posted conspicuously at the premises or mailed to the last known address of the person by certified mail, return receipt requested.

- C. Describe with particularity the asserted violation existing on the premises or property which gives rise to the issuance of the notice and order.
  
- D. Specify the period within which the violation must be abated or otherwise corrected.
  
- E. State that an appeal will be heard by the Planning Commission, provided that a written notice of appeal and application is made within ten (10) days from the date of mailing, posting or personal service of the notice and order. (Ord. 86-66; Ord. 88-190; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 05-101)

#### **7.5.1007: APPEALS:**

All appeals of zoning enforcement decisions made by the Manager relating to enforcement of violations of this Zoning Code and the Subdivision Code of this chapter shall be heard by the Planning Commission in accord with the provisions of section [7.5.906](#) of this article. A perfected appeal shall operate as a stay of the zoning enforcement decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site. The time frame in which violations of this nature operate is such that a stay of proceedings will make the enforcement process ineffective. Examples of short term violations include, but are not limited to, the following: temporary vendors, promotional events, and temporary signs. (Ord. 86-66; Ord. 89-9; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 05-101; Ord. 09-80)

#### **7.5.1008: FAILURE TO COMPLY WITH NOTICE AND ORDER OR AGREEMENT TO ABATE:**

- A. Noncompliance Prohibited: It shall be unlawful for any person to fail or refuse to comply with any order issued pursuant to this article.
  
- B. Direct Abatement: In the event that any order issued pursuant to this article is not complied with in the time specified, the Manager may direct to remove, correct or otherwise abate through private contract the condition giving rise to the issuance of the order to abate, as outlined in subsection [7.5.1005E](#) of this part. The procedure as outlined in this section for the collection of the costs and expenses of abatement shall apply independently in addition to the remedies provided by this article for violation of any provision of this chapter.
  
- C. Compliance Failure; Fees: Notwithstanding the provisions of subsection D of this section, the owner of the property who has been issued a notice and order for violation(s) of this chapter, and who fails to comply with an order to abate, may be assessed a reinspection fee for every reinspection necessitated by the owner's continued noncompliance with the notice and order to abate.

The "owner of the property", "property owner" or "owner" shall be the owner of record as reflected in the records of the El Paso County Assessor at the time of notification of the violation. For purposes of this section, "reinspection" is defined as any and all inspections at a specific property owned by a first time offender, repeat offender or chronic repeat offender, after issuance of the first notice and order to abate and subsequent failure to comply notice for a violation. The reinspection fees will escalate with the increased status in classification of the offender. Reinspection fees will be assessed for all site visits until the violation is abated. The violation(s) shall be regularly reinspected until the owner successfully complies with the notice and order to abate. The owner will be billed via certified mail and payment will be required within twenty (20) days from the date of mailing. Failure to pay reinspection fees will result in a tax lien filed against the property in accord with section [7.5.1009](#) of this part. In the event one or more reinspection fees are assessed and the first time, repeat or chronic repeat offender (collectively "offender") or the offender's agent fails to pay the fee(s) within twenty (20) days from the date of mailing, the Manager is authorized to file a lien against the property for the fee(s) in accord with section [7.5.1009](#) of this part. A lien for unpaid reinspection fees shall include any costs incurred in the perfecting of the lien. The Manager is further authorized to include in one lien assessment action any and all costs incurred by the City associated with the removal, correction or other abatement necessitated by the offender's continued violation and failure to abate following issuance of a notice and order to abate.

#### D. Reinspection Fees By Classification Of Offenders:

1. First Time Offender: For purposes of this section, a "first time offender" is defined as an owner of a property who does not comply with the first notice and order issued for a specific violation nor with a subsequent failure to comply notice with an order to abate. A first time offender shall be assessed a first time offender reinspection fee of one hundred dollars (\$100.00) for every reinspection required until compliance is achieved.
2. Repeat Offender: For purposes of this section, a "repeat offender" is defined as an owner who has been previously classified as a first time offender.
  - a. A repeat offender previously cited for a failure to comply with a notice and order to abate during any successive six (6) month period for a violation(s) which has occurred at the property, shall be assessed a reinspection fee of two hundred fifty dollars (\$250.00) for each reinspection conducted until compliance is achieved. The Manager may remove the "repeat offender" designation if, after abatement, the owner has no further violation(s) for a period of six (6) months. If a "repeat offender" designation is removed and the owner has a subsequent violation on the same property, that owner shall be immediately reclassified as a "repeat offender".
  - b. A repeat offender who reengages in prohibited zoning activities at any time within a twelve (12) month period following the prior violation shall be assessed a reinspection fee of two hundred fifty dollars (\$250.00) for each reinspection conducted until compliance is achieved. If after a period of one year with no zoning violations or enforcement activity any zoning violation occurs, the repeat offender would be reclassified as a first time offender.
3. Chronic Repeat Offender: For the purposes of this section, a "chronic repeat offender" is defined as an owner who has been previously classified as a repeat offender. A property owner who has been designated a "repeat offender" for a period of twelve (12) or more successive months shall be reclassified as a "chronic repeat offender".

- a. A chronic repeat offender previously cited for a failure to comply with a notice and order to abate for a violation(s) which has occurred at the property in violation for a period of twelve (12) or more successive months shall be assessed a reinspection fee of five hundred dollars (\$500.00) for each reinspection completed until compliance is achieved. The Manager may remove the "chronic repeat offender" designation if the owner has no further violation(s) on the property for a period of twelve (12) months. If a "chronic repeat offender" designation is removed and the owner has a subsequent violation, that owner shall be immediately reclassified as a "chronic repeat offender".
  - b. A chronic repeat offender who reengages in prohibited zoning activities at any time within a twelve (12) month period following the prior abatement shall be assessed a reinspection fee of five hundred dollars (\$500.00) for each reinspection conducted until compliance is achieved. If after a period of one year with no zoning violation(s) or enforcement activity any zoning violation occurs, the chronic repeat offender would be reclassified as a first time offender.
4. Failure To Comply With Agreement To Abate: Any owner who fails to comply with an agreement to abate prohibited zoning activity shall be classified as a "chronic repeat offender" and shall be assessed a reinspection fee of five hundred dollars (\$500.00) for each reinspection conducted until compliance with the agreement to abate is achieved.
- E. Summons And Complaint: The Manager is authorized to request the issuance of a summons and complaint for any violation of the Zoning Code in accord with section [1.1.201](#) of the City Code. (Ord. 86-66; Ord. 88-190; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 07-41; Ord. 09-42; Ord. 09-80)

#### **7.5.1009: LIEN ASSESSMENT:**

- A. Authority: When a person fails or refuses to comply with an order to abate and the Manager has reinspected and removed, corrected or abated the violation, the Manager is hereby authorized to commence lien assessment proceedings against the property in accord with the provisions of this section. In addition, the Manager is further authorized to assess an administrative surcharge of twenty five percent (25%) of the cost of abatement proceedings. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes.
- B. Notice: Prior to the imposition of any lien, the Manager shall send the property owner a notice of lien assessment which shall contain the following information:
1. The address of the property to be assessed and the name and address of the property owner;
  2. The dates of the notice and order, any reinspections and the issuance of the order to abate;
  3. The name of the contractor that abated the condition giving rise to the issuance of the notice and order;
  4. The total amount of the assessment, including reinspection fees, the cost of abatement and the amount of the administrative surcharge;
  5. A due date for payment of the assessment which is not less than twenty (20) days after the date of the notice of lien assessment;

6. A statement that failure to pay the assessment within the time period set forth in the notice of lien assessment will result in the imposition of a lien against the property;
7. A statement explaining the appeal procedure for the notice of lien assessment.

C. Service Of The Notice Of Assessment:

1. Mailing: The notice of assessment shall be mailed to the property owner via certified first class U.S. mail, return receipt requested. A return receipt signed by the property owner or an agent of the property owner shall be prima facie evidence of service on the date indicated by the owner, agent or U.S. Postal Service.
2. Posting: In the event the property owner or an agent of the property owner fails to receive service of the notice of lien assessment via certified first class U.S. mail, return receipt requested, the Manager is authorized to post the notice in a conspicuous place on the property to be assessed.

D. Appeal And Hearing:

1. Time: A property owner must appeal a notice of lien assessment in writing within ten (10) days of its date of mailing, posting or personal service by the property owner or the owner's agent, or within ten (10) days from its date of mailing, posting or personal service to be assessed.
2. Contents: The notice of appeal must state the name and address of the property owner, the address of the property assessed and the grounds for appeal.
3. Hearing: The appeal of a notice of lien assessment shall be heard by the Planning Commission, in accord with the procedures outlined in this chapter.
4. Decision: The Planning Commission may, after hearing the property owner's objections, make any modification or change to the assessment as may seem equitable and just, or may confirm the assessment. The Planning Commission shall not modify or change the amount of the reinspection fee or the administrative surcharge.
5. Lien Assessment: If not appealed, the total assessment shall then be levied, assessed and charged against the property upon which abatement action was taken not less than ten (10) days from its date of mailing, posting or personal service after the property owner's or agent's mailed receipt of the notice of lien assessment or posting on the property to be assessed. If appealed, the Planning Commission's determination of the total assessment shall then be levied, assessed and charged against the property upon which abatement action was taken not less than ten (10) days after the date of the Planning Commission's determination. In either event, the assessment shall become a perpetual lien against the property, superior and prior to all other liens and encumbrances excepting liens for general and special taxes. The Manager shall notify the Chief Financial Officer who shall certify any lien assessment to the El Paso County Treasurer who shall collect the lien assessment in the same manner as ad valorem taxes are collected. (Ord. 86-66; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 07-41; Ord. 09-80; Ord. 11-19)

**7.5.1010: EMERGENCY ABATEMENT ORDER:**  

A. Whenever the Manager deems that an emergency exists which requires immediate action to protect the public health, safety and welfare, the Manager may, without prior notice or hearing, issue an order stating that an emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this section to the contrary, the order shall be effective immediately.

B. It shall be unlawful for any person to whom an emergency order is issued to fail to comply with the emergency order immediately. In the event that the person to whom the emergency order was issued fails or refuses to immediately comply, the Manager may request, without prior notice to the owner, occupant or agent of the owner, that the dangerous condition be removed, corrected or otherwise abated to an extent that it is no longer an imminent hazard to the public health, safety and welfare. Except as otherwise provided, the provisions of this section and chapter 9, article 6 of this Code, shall apply to any removal, correction or other abatement action taken pursuant to an emergency order. (Ord. 86-66; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 09-80)

#### **7.5.1011: PROCEDURES AND GUIDELINES:**

A. The Manager shall be empowered to promulgate procedures and guidelines to accomplish the purposes of this part.

B. Copies of any procedures and guidelines shall be available for inspection at the offices of the Manager and the Community Development Department during regular business hours. (Ord. 86-66; Ord. 88-190; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-101; Ord. 09-80)

#### **7.5.1012: SPECIAL INVESTIGATOR:**

The land use inspectors may be granted special investigative authority in accord with section [8.1.204](#) of this Code. These powers shall be limited to the authority to issue summons and complaints for violations of this chapter. (Ord. 05-101)

## **PART 11 ADMINISTRATIVE RELIEF**

**[7.5.1101: PURPOSE AND INTENT:](#)**

**[7.5.1102: FINDINGS NECESSARY TO GRANT ADMINISTRATIVE RELIEF:](#)**

**[7.5.1103: RELIEF:](#)**

**[7.5.1104: APPLICATION:](#)**

**[7.5.1105: PUBLIC NOTICE:](#)**

**[7.5.1106: APPEAL:](#)**

**[7.5.1107: EXPIRATION AND RECONSTRUCTION OF BUILDINGS:](#)**

**7.5.1101: PURPOSE AND INTENT:**  

The purpose of this part is to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal or a minor problem arises with the strict application of development standards. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.5.1102: FINDINGS NECESSARY TO GRANT ADMINISTRATIVE RELIEF:**  

To grant administrative relief, all of the following criteria must be met:

- A. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district and such conditions will not allow a reasonable use of the property in its current zone in the absence of relief.
  
- B. The intent of this Zoning Code and the specific regulation in question is preserved.
  
- C. The granting of the administrative relief will not result in an adverse impact on surrounding properties.
  
- D. The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel. Administrative relief shall not be used to create or modify lots to the extent that they no longer meet the minimum lot size for the zone district in which they are located. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16)

**7.5.1103: RELIEF:**  

- A. Administrative relief up to a maximum of fifteen percent (15%) reduction may be applied to any quantifiable development standard within the Zoning or Subdivision Code. In cases where administrative relief is granted for properties subject to an approved development plan, the applicant shall be required to process an amendment to the development plan to reflect the site conditions modified through the administrative relief approval. This requirement shall not apply to administrative relief requests granted for single-family residential or duplex uses.
  
- B. Specific Relief In MU Zone Districts:
  - 1. A reduction of the average FAR may be allowed up to twelve percent (12%), or twenty two hundredths (0.22) FAR, based on physical site constraints, drainage and the preservation of significant natural features.
  
  - 2. An increase in height of a structure with parking below may be permitted, based on the following table:



	<b><u>Maximum Permitted Building Height</u></b>	<b><u>Maximum Permitted Height With Administrative Relief</u></b>
MU-CC	45 feet	65 feet
MU-R/EC	65 feet	85 feet

3. A reduction in internal parking lot landscaping may be allowed, up to fifty percent (50%) of the requirement, provided that trees planted along the site perimeter also serve to screen and shade the interior of the parking lot; or up to fifty percent (50%) of the requirement if a low decorative wall or fence is installed along the parking area perimeter that also serves to screen the parking area from public view.

C. Specific Relief In FBZ Districts: Alternate requirements and procedures for administrative relief may be included as a part of an FBZ regulating plan. (Ord. 94-107; Ord. 96-82; Ord. 01-42; Ord. 03-16; Ord. 03-157; Ord. 09-50)

**7.5.1104: APPLICATION:**  

An application for administrative relief may be filed in conjunction with a development proposal such as a development plan or a building permit site plan and filed in a manner consistent with the requirements contained in part 2 of this article. (Ord. 86-39; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16)

**7.5.1105: PUBLIC NOTICE:**  

Public notice for administrative relief applications may include posting, mailed public notification and neighborhood meetings at the discretion of the Manager as listed in section [7.5.902](#) of this article. (Ord. 03-16)

**7.5.1106: APPEAL:**  

A decision regarding administrative relief may be appealed to the Planning Commission in accord with the requirements of part 9 of this article. (Ord. 86-39; Ord. 88-190; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16)

**7.5.1107: EXPIRATION AND RECONSTRUCTION OF BUILDINGS:**  

A. Expiration: An application for administrative relief together with the accompanying site plan approved pursuant to this article shall expire within twelve (12) months from the date of final approval if action is not taken within that time. Prior to the expiration of the administrative relief approval, a twelve (12) month extension of approval may be granted by the Manager for good cause. For purposes of this subsection, "action" means obtaining a building permit pursuant to the administrative relief or if a building permit is not required, the right which is granted pursuant to the administrative relief is put to use.

Administrative relief granted and associated with a concept plan, development plan, conditional use or use variance shall run concurrently with the plan and shall expire at the time of the applicable plan's expiration date.

- B. Reconstruction Of Damaged Buildings With A Previously Approved Administrative Relief Site Plan Or Development Plan: In the event buildings with a previously approved administrative relief site plan are damaged and/or destroyed by fire or other natural causes, the buildings may be rebuilt according to the approved site plan on file with the City. Any necessary building permits shall be obtained within four (4) years of the date of destruction, unless an extension has been approved by the Manager due to extraordinary circumstances. (Ord. 09-76)

## **PART 12 NONCONFORMING DEVELOPMENT**

### **7.5.1201: PURPOSE:**

### **7.5.1202: EFFECTIVE DATE OF ZONING REGULATIONS:**

### **7.5.1203: NONCONFORMING USES:**

### **7.5.1204: NONCONFORMING BUILDINGS OR STRUCTURES:**

### **7.5.1205: NONCONFORMING LOTS:**

### **7.5.1206: NONCONFORMING LANDSCAPING AND PARKING:**

### **7.5.1207: RECLASSIFICATION:**

### **7.5.1208: NONCONFORMING USES IN AO OVERLAY:**

### **7.5.1201: PURPOSE:**

The purpose of this part is to establish criteria for the reasonable continuation of legally established uses which do not meet current use requirements and the reasonable use of nonconforming structures and lots. It is also intended to prevent the expansion of nonconforming uses and structures. (Ord. 94-107; Ord. 01-42; Ord. 12-73)

### **7.5.1202: EFFECTIVE DATE OF ZONING REGULATIONS:**

The first zoning ordinance adopted by the City of Colorado Springs became effective August 24, 1926. Since that date there have been numerous annexations to the City, changes of zones as well as changes to the development standards contained with the Zoning Code. The effective date of an annexation ordinance determines the date upon which the Zoning Code of the City became applicable to a specific annexed property. The effective date of a rezoning or change to the development standards would determine the date upon which the action would become applicable to a particular property. The effective date of this section will vary for specific properties accordingly. Therefore no single effective date of general application can be used for all nonconforming uses, buildings and/or structures, landscaping and off street parking. (Ord. 01-42)

### **7.5.1203: NONCONFORMING USES:**

A. Continuation: The use of a nonconforming building and/or structure, landscaping and parking may continue, except as otherwise provided in this section.

B. Extension Of Use:

1. Use Of Land: A legal nonconforming use of land shall not be expanded, enlarged or extended in any way either on the same or adjoining properties.
2. Use In Structure: The extension of a legal nonconforming use into any other portion of the structure in which it is housed shall be allowed only if the following conditions are met:
  - a. Such portion of the structure was primarily arranged or designed for such nonconforming use at the time this Zoning Code became effective, and
  - b. The extension of the nonconforming use in floor area does not exceed fifty percent (50%) of the floor area which was used by the nonconforming use at the time this Zoning Code became effective.

C. Change Of Use: A legal nonconforming use may be changed only to a use which is the same intensity and as restricted, is a lesser intensity and more restricted, or is conforming to the provisions of this Zoning Code.

The determination to allow a legal nonconforming use to change to a nonconforming use of the same intensity and restriction, to a nonconforming use of a lesser intensity and greater restriction, or to a conforming use shall be made by the Manager. The following criteria shall be used to make a determination of change of use:

1. Restriction: The proposed use is permitted in the same or more restrictive zone districts (as described in article 2, part 1 of this chapter) than the existing use.
2. Intensity: The proposed use requires less or the same amounts of off street parking and landscape buffering and has lower or the same levels of associated traffic generation, noise, light and dust than the existing use.
3. Neighborhood: The proposed use shall be no more harmful to the surrounding neighborhood than the existing use.

When a legal nonconforming use is changed to a less intensive and/or more restrictive legal nonconforming use, such use shall not be returned to a more intensive or less restrictive nonconforming use. When a legal nonconforming use is changed to a conforming use, such use shall not be returned to a nonconforming use.

D. Repairs And Maintenance: A structure occupied by a legal nonconforming use may be repaired and maintained and if it is declared to be unsafe by a Regional Building Official, it may be strengthened or restored to a safe condition. However, the cost of repairs and maintenance shall not exceed fifty percent (50%) of the replacement cost of the entire structure.

- E. Additions And Enlargement To A Structure: A structure housing a legal nonconforming use may not be added to, enlarged, or structurally altered for the nonconforming use.
- F. Discontinuance: If a nonconforming use located on any land or any structure is discontinued or its normal operation stopped for a continuous period of one year, then any subsequent use of the land or structure must conform to all use regulations in the zone district in which it is located.
- G. Damage Or Destruction To A Structure: When a legal nonconforming use located on any land or a structure occupied by a legal nonconforming use is damaged by fire or other causes to the extent that the cost of restoration exceeds fifty percent (50%) of the replacement cost of the use of land or replacement cost of the entire structure, then the nonconforming use shall no longer be permitted.
- H. Nonconforming Uses And Conditional Uses: A preexisting, legal nonconforming use which would require the approval of a conditional use in its zone district shall be presumed to have the required conditional use approval. Modifications to the structure or site shall be processed as either a minor or major amendment or modification to a conditional use development plan in accord with part 7 of this article. The appropriate approval shall be governed by the regulations and procedures in part 7 of this article. (Ord. 80-130; Ord. 84-28; Ord. 85-11; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 12-73)

#### **7.5.1204: NONCONFORMING BUILDINGS OR STRUCTURES:**

- A. Continuation: Nonconforming buildings or structures under this section which are damaged or destroyed by fire or other causes may be rebuilt under the following conditions:
1. Any necessary building permits are obtained within twelve (12) months of the date of destruction, unless an extension has been approved by the Manager due to extraordinary circumstances;
  2. The gross floor area and height of the new structure shall not exceed the gross floor area and height of the original nonconforming structure;
  3. The new structure shall comply with all development standards for the particular zone district in which the property is located, with the exception of lot coverage and height which may be exceeded to the extent of the previously existing legal nonconforming development; and
  4. Reconstruction of single-family detached homes or duplexes, which are legal nonconforming buildings or structures, shall be subject to the submittal and approval of a site plan in conjunction with the building permit review process. Reconstruction of all other legal nonconforming buildings or structures shall be subject to the submittal and approval of a development plan in accord with section [7.5.502](#) of this article prior to the issuance of a building permit.
  5. Existing attached stoops, porches and decks on nonconforming residential structures are considered a part of the entire structure and are not eligible for a stand alone fifty percent (50%) replacement value limitation. Attached stoops, porches and decks located within the required front, side or rear yard setback may be replaced in its original location but may not be enlarged in size and height.

B. Repairs And Maintenance: A nonconforming structure occupied by either a conforming or legal nonconforming use may be repaired and maintained, and if it is declared to be unsafe by a Regional Building Official, it may be strengthened or restored to a safe condition. However, the cost of repairs and maintenance shall not exceed fifty percent (50%) of the replacement cost of the entire structure, and there shall be no increase in the degree of nonconformity.

C. Additions And Enlargement Of Structures:

1. A legal nonconforming structure occupied by a conforming use may not be added to, enlarged, or structurally altered unless such addition, enlargement or structural alteration conforms to all regulations and site development standards of the zone in which it is located including, but not limited to, square footage per dwelling unit, maximum lot coverage, setbacks, parking and landscaping.
2. A legal nonconforming structure occupied by a legal nonconforming use may not be added to, enlarged, or structurally altered.

D. Damage Or Destruction To A Structure: When a legal nonconforming structure is damaged by fire or other causes to the extent that the cost of restoration exceeds fifty percent (50%) of the replacement cost of the use of land or the entire structure, the nonconforming structure must be removed.

E. Conversion Of Conforming Structure: A conforming structure shall not be changed in any way that will result in a nonconforming development. (Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 06-19; Ord. 09-76; Ord. 09-80; Ord. 12-73)

**7.5.1205: NONCONFORMING LOTS:**  

A. Lot Of Record: A lot of record is a parcel of land in the City, the deed of which was recorded in the public records of El Paso County, Colorado, on or before February 13, 1951, or a parcel of land subsequently annexed to the City which was: 1) a platted lot meeting the applicable subdivision requirements of El Paso County, 2) a legal nonconforming lot in El Paso County, 3) a parcel of land that was legally exempted by El Paso County from platting requirements, which has become nonconforming because it does not meet the required minimum area or minimum width may be developed with any permitted use allowed in the zone district in which it is located, or 4) a parcel of land in El Paso County created before September 1, 1972. The development must comply with all other site development regulations set forth by this Zoning Code, except as noted in subsection B of this section. No such lot may be reduced so that the lot area or width is smaller than required by this Zoning Code.

B. Side Building Setbacks For Narrow Lots: When a lot of record is under separate ownership, located in a residential zone, and narrower than the minimum lot width, the following reduction of the side building setback may be allowed. For each foot by which the lot of record is narrower than the minimum lot width requirement of the zone in which it is located, one and one-half inches (1½") may be deducted from the required least width of any side setback and three inches (3") from the sum of the least widths of both side setbacks for buildings which do not exceed two (2) stories in height; however, a side setback may not be narrower at any point than

ten feet (10') in an R zone, five feet (5') in an R-1 9000 zone, four feet (4') in R-1 6000 zones, and three feet (3') in R-2, R-4 and R-5 zones.

- C. Lots Rendered Nonconforming By Public Acquisition: Lots rendered nonconforming by public acquisition of right of way or for other purposes because the lots no longer meet the required minimum area or minimum width may be developed for any permitted use allowed in the zone district in which it is located. When the public acquisition results in the reduction of or elimination of existing landscaping or parking spaces, the owner of the property shall not be required to replace the removed landscaping or parking spaces. (Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 12-73; Ord. 17-2)

#### **7.5.1206: NONCONFORMING LANDSCAPING AND PARKING:**

- A. Purpose And Intent: Within the districts created by the adoption of this Zoning Code or by the adoption of amendments thereto, there may exist developments of land with parking areas and landscaping which were legal prior to the adoption or amendment of this Zoning Code, but under which the terms of this Zoning Code, or its amendments, are now prohibited, restricted or regulated. It is the intent of this part to permit these nonconformities of parking or landscaping to continue until they are voluntarily removed or brought into compliance in conjunction with a proposed change in the development.

- B. Continuation: Landscaping or parking areas legally existing at the time this Zoning Code became effective which have become nonconforming because they no longer meet current requirements may be continued, except as otherwise provided in this Zoning Code.

- C. Extension: Nonconforming landscaping or parking spaces shall not be enlarged, expanded, extended or increased, except as provided in this Zoning Code.

#### **D. Proposals Which Require Conformance Or Continuance As Legal Nonconforming:**

##### **1. Off Street Parking:**

- a. Off street parking and maneuvering areas which conform to article 4, part 2 of this chapter shall be provided for a newly constructed building or new use on previously vacant land, for all uses in a building which is enlarged, and for all uses in a building when any use is changed and the newly approved use requires more parking than the previously approved use; however, the areas outlined in article 4, part 2 of this chapter are exempt from these regulations.

Additional off street parking may be required whenever the Manager determines that it is necessary to avoid congestion on public streets and for the general safety and convenience of City residents.

- b. The provisions of this section shall not apply to vehicle parking and storage requirements within residential zones as set forth in article 4, part 2 of this chapter. However, driveways constructed prior to the effective date of this Code which do not comply with the standards of article 4, part 2 of this chapter shall be granted all nonconforming rights as set forth within this section.

2. Nonconforming In Terms Of Landscaping: Landscaping is important in improving the overall appearance of the City and increasing the compatibility of different land uses.

It is recognized that conformance with landscaping requirements may have special problems related to the existing improvements and the scale of a proposed change of a project. Landscaping is difficult to install in conjunction with relatively small increments of change in a development project (such as relatively small building additions or changes of use) for the following reasons:

- a. The landscaping elements of a development project should be planned in a comprehensive and coordinated manner which is not feasible to implement with relatively small increments of change,
- b. Nonconformities related to landscaping are difficult to resolve where the existing improvements limit the potential for a comprehensive landscaping plan to be implemented, and
- c. Fragmented ownership in a development project can further reduce the potential for a comprehensive landscaping plan to be implemented with relatively small increments of change.

It is recognized that conformance with landscaping requirements may have special problems related to the existing improvements and the scale of a proposed change of a project.

The existing nonconforming landscaping of a development project is permitted to continue until one of the following changes occurs:

- d. Any new construction or addition of building floor area consisting of fifty percent (50%) or more of the existing gross building floor area of the development project on the subject lot, or
- e. Any change from a residential use to a nonresidential use (or vice versa) consisting of fifty percent (50%) or more of the existing gross building floor area of the development project on the subject lot.

All required landscaping shall be provided in conjunction with either of the two (2) changes described above. All required landscaping shall be provided in conjunction with any new development of a vacant lot or with the total redevelopment (demolition and new construction) of a lot.

Administrative relief of the requirements of this section may be requested under part 11 of this article. (Ord. 80-131; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.5.1207: RECLASSIFICATION:**

The foregoing provisions of this part shall also apply to buildings, structures, use of land or uses which hereafter become nonconforming due to any amendments to this Zoning Code or reclassification of zones under this Zoning Code. (Ord. 91-17; Ord. 91-30; Ord. 94-107; Ord. 01-42)

### **7.5.1208: NONCONFORMING USES IN AO OVERLAY:**

A. Applicability:

- 1. Nothing in this section shall require any change in any lawfully constructed building, structure or use in existence at the time of adoption or amendment of the AO overlay ordinance to continue its current lawful use, nor shall this section prohibit its reconstruction if partially or completely destroyed.

2. The provisions of this section shall apply to any application for a building permit, certificate of occupancy, zone change, conditional use, development plan, preliminary and final subdivision and mobile home park plan approval.
  3. None of the provisions of the AO overlay district shall be construed to prohibit the continuance, expansion or reestablishment under current law of any existing use. Noise level reduction design standards apply only to new structures and/or uses of land and not to structural additions.
  4. Mobile homes moved onto existing mobile home spaces are exempt from the requirements of the AO overlay district.
- B. Marking And Lighting: Notwithstanding the provision of subsection A of this section, the owner of any nonconforming improvement shall permit the installation, operation, and maintenance of markers and lights as shall be deemed necessary by the Airport Advisory Committee to indicate to the operators of aircraft in the vicinity of the airport the presence of airport or navigational hazards. Markers and lights shall be installed, operated and maintained at the expense of the City of Colorado Springs.
- C. Existing Uses: No approval shall be granted that would allow the establishment or creation of a "hazard to air navigation", as defined in subsection [7.3.506B](#) of this chapter, or permit a nonconforming use, or improvement to be made or become higher, or become a greater hazard to air navigation than it was on the effective date hereof, or than it is when the application for a permit is made. (Ord. 06-89; Ord. 09-70)

## **PART 13 SEXUALLY ORIENTED BUSINESS**

### **[7.5.1301: PURPOSE AND DESCRIPTION:](#)**

### **[7.5.1302: DEFINITIONS:](#)**

### **[7.5.1303: REGULATIONS:](#)**

### **[7.5.1304: VARIANCES:](#)**

### **7.5.1301: PURPOSE AND DESCRIPTION:**

The purpose of these regulations is to allow the reasonable location of sexually oriented businesses within the City in a manner which will protect property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses while providing to those who desire to patronize sexually oriented businesses such opportunity in appropriate areas within the City. It is not the intent of this chapter to suppress any speech activities protected by the first amendment of the United States Constitution but to impose neutral regulations which address the adverse secondary effects sexually oriented businesses may have on adjoining properties.

It has been determined, and reflected in the land use studies of various United States cities, that businesses which have as their primary purpose the selling, renting or showing of sexually explicit materials have negative secondary impacts upon surrounding businesses and residences. The



experience in other United States cities is that the location of sexually oriented businesses significantly increases the incidence of crimes especially sex offenses, including rape, indecent exposure, lewd and lascivious behavior, and child molestation.

It has been determined, and reflected in the land use studies of various United States cities, that the business of sexually oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and downgrading of property values.

It is the intent of these regulations to allow sexually oriented businesses to exist within the City in various dispersed locations along the lines of the city of Detroit model rather than to allow them to concentrate in any one business area. It is further the purpose of these regulations to require separation requirements between sexually oriented businesses and residential uses, churches, parks and educational institutions in an effort to buffer these uses from the secondary impacts created by sexually oriented business activity. (Ord. 77-10; Ord. 80-131; Ord. 86-158; Ord. 91-30; Ord. 92-126; Ord. 94-107; Ord. 01-42)

#### **7.5.1302: DEFINITIONS:**

**ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE OR ADULT VIDEO STORE:** A business having fifty percent (50%) or more of its stock and trade, revenues, space, or advertising budget, that result from the sale, rental or viewing one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- B. Instruments, devices, or paraphernalia which are designed for specified sexual activities.

**ADULT CABARET:** A nightclub, bar, restaurant, or similar business which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT MOTEL:** A hotel, motel or similar business which offers accommodations to the public for any form of consideration and provides patrons live performances or with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT MOTION PICTURE THEATER:** A business where films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT THEATER:** A theater, concert hall, auditorium, or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**PERSON:** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**SEXUAL ENCOUNTER ESTABLISHMENT:** A business or commercial establishment, which as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

**SEXUALLY ORIENTED BUSINESS:** An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business having fifty percent (50%) or more of its stock and trade and revenue sexually oriented and includes:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business;
- D. The relocation of any sexually oriented business; or
- E. The continuation of a sexually oriented business in existence on the effective date hereof.

**SPECIFIED ANATOMICAL AREAS:**

- A. Less than completely and opaquely covered: human genitals, pubic region, buttocks, and female breast below a point above the top of the areola.
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Acts, simulated acts, exhibitions, representations, depictions or descriptions of:

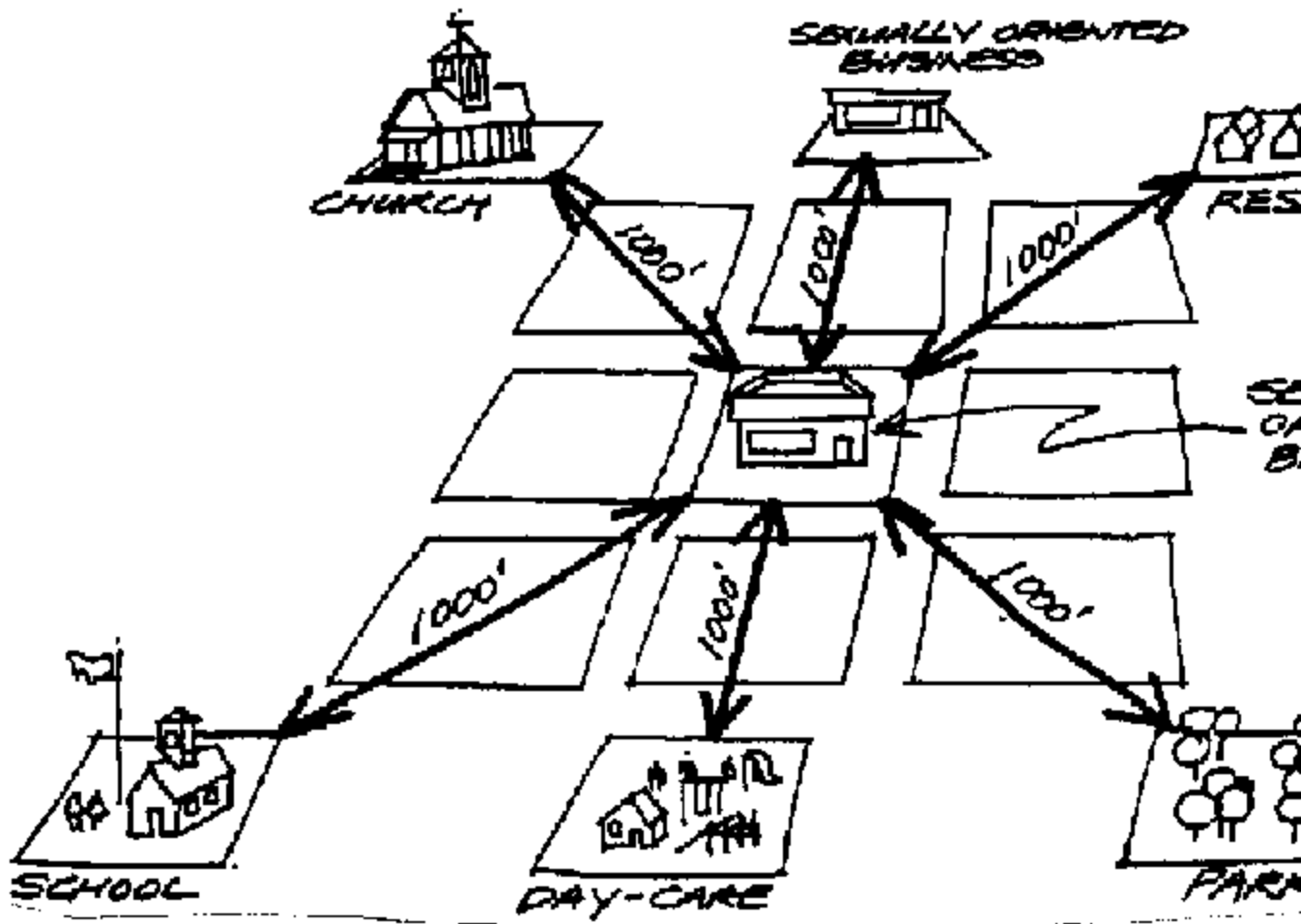
- A. Human genitals in a state of sexual stimulation or arousal.
- B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
- C. Intrusion, however slight, actual or simulated, by any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body.
- D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated.
- E. Flagellation, mutilation or torture, actual or simulated, in a sexual context. (Ord. 77-10; Ord. 80-131; Ord. 82-48; Ord. 88-145; Ord. 91-30; Ord. 92-126; Ord. 94-107; Ord. 01-42; Ord. 12-76)

**7.5.1303: REGULATIONS:**  

Sexually oriented business shall be allowed in the PBC, C-5, C-6 and M-2 zones as a principal permitted use.

- A. Separation Requirements: No sexually oriented business shall be located within one thousand feet (1,000') of another sexually oriented business, residentially zoned or used property, church, daycare center, park or educational institution (whether within or without the City). A variance of the foregoing restrictions may be applied for in accord with this Zoning Code.
1. Method Of Measurement: The one thousand foot (1,000') separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed sexually oriented business to the nearest property line of another sexually oriented business, residentially zoned or used property, church, park, daycare center or educational institution.

# Sexually Oriented Business Establishment



B. Sexually Oriented Business Permit Required: It shall be unlawful for any person to conduct or establish any sexually oriented business activity or enterprise until a sexually oriented business permit has been approved by the Manager or the designee.

C. Sexually Oriented Business Permit Review Criteria: Sexually oriented business permits shall be approved if all of the following criteria are met:

1. The subject property is either zoned C-5, C-6 or M-2, or

2. The subject property is zoned PBC and a development plan has been approved for the proposed sexually oriented business in accord with part 5 of this article.
  3. The subject property meets the one thousand foot (1,000') separation requirements as set forth in this section.
  4. The subject property contains off street parking in accord with the requirements of article 4, part 2 of this chapter.
  5. The proposed sexually oriented business building has a certificate of occupancy which meets the requirements of section RBC110 of the Building Code.
- D. Sexually Oriented Business Permit Review Process: Applicants for a sexually oriented business permit shall submit a completed application form which contains such information as established by the Manager and complies with part 2 of this article. The application shall be reviewed administratively by the Manager who shall approve or deny the application within ten (10) working days of submittal. Any decision of the Manager is appealable to the Planning Commission pursuant to part 9 of this article. (Ord. 82-48; Ord. 86-158; Ord. 91-30; Ord. 92-126; Ord. 92-160; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 05-135)

**7.5.1304: VARIANCES:**  

Nonuse and use variances to the regulations and criteria of this part shall be in accord with the criteria and regulations set forth in part 8 of this article. (Ord. 86-213; Ord. 91-30; Ord. 92-126; Ord. 92-160; Ord. 94-107; Ord. 01-42)

## **PART 14 TEMPORARY USES**

**7.5.1401: PURPOSE:**

**7.5.1402: TEMPORARY USE PERMIT REQUIRED:**

**7.5.1403: TEMPORARY USE PERMIT REVIEW CRITERIA:**

**7.5.1404: CONDITIONS OF APPROVAL:**

**7.5.1405: APPLICATION:**

**7.5.1401: PURPOSE:**  

The temporary use permit is a mechanism by which the City may allow a use to locate within the City on a short term basis and by which it may allow seasonal or transient uses not otherwise allowed. This section is intended to permit certain inherently temporary uses such as community festivals, fresh produce stands and temporary promotions by permanent businesses. (Ord. 80-131; Ord. 82-115; Ord. 83-45; Ord. 85-11; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.5.1402: TEMPORARY USE PERMIT REQUIRED:**  

It shall be unlawful for any person to conduct or establish any temporary use until a temporary use permit has been approved by the Manager. This part applies to every application for any temporary use permit. (Ord. 94-107; Ord. 01-42)

### **7.5.1403: TEMPORARY USE PERMIT REVIEW CRITERIA:**

The Manager may approve or modify and approve an application for a temporary use permit if the following criteria, specific regulations and time limitations are met:

- A. Health, Safety And General Welfare: The allowance of such use will not be detrimental to the public health, safety and general welfare, and the use is compatible with the purpose and intent of this Zoning Code and in the specific zoning district in which it will be located.
  
- B. Intensity, Characteristics And Appearance: The use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the proposed location, and the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected by the use or activities with it. Factors such as location, access, traffic generation, noise, light, dust control and hours of operation will all be considered.
  
- C. Temporary Uses: Temporary uses are allowed in any zone district unless they are specifically limited by this section.
  
- D. Publicly Owned Property: The use shall not be on publicly owned property unless the applicant first obtains approval of a revocable permit per chapter 3, article 2, part 2 of this Code authorizing such use.
  
- E. Off Street Parking: Adequate off street parking is provided to serve the use. The use does not displace the required off street parking spaces or loading areas of the principal permitted uses on the site.
  
- F. Display Of Merchandise: Display of merchandise for sale need not comply with the yard and setback requirements of this Zoning Code provided that no merchandise shall be displayed within thirty feet (30') of the intersection of the curb line of any two (2) streets or within the required landscaped setback area.
  
- G. Sales Tax License: Before a temporary use involving the sale of merchandise may begin, a sales tax license must be obtained from the City's sales tax office.
  
- H. Signage: A temporary use involving the sale of merchandise is limited to the signage described in article 4, part 4 of this chapter.
  
- I. Uses: The particular uses listed below are subject to additional regulations, specific time periods and/or restricted zone districts:

1. Christmas Tree Sales: Limited to only the A, OC, PBC, C-5, C-6, PIP-1, PIP-2, M-1 and M-2 zones for a period of time not to exceed sixty (60) days.
2. Contractors' Offices And Equipment Sheds, Accessory To A Construction Project: Limited to a period of time determined by an estimated completion date with the option of a one year extension.
3. Temporary Offices And Bank Facilities In Mobile Homes: Limited to only the PUD, OC, PBC, C-5, C-6, PIP-1, PIP-2, M-1, and M-2 zone districts for a period of time not to exceed one year after a development plan as defined in part 5 of this article is approved. The development plan must show the locations of the proposed temporary and permanent facilities.
4. Temporary Real Estate Sales Offices: Temporary real estate sales offices, and/or a business office for the builder, may be located within modular buildings or model homes in accord with the following criteria:
  - a. Real Estate Office Within Model Homes: A temporary real estate sales office, and/or business office for the builder, may be located within a model home for the purpose of marketing lots or homes within a specific development.
    - (1) Time Frame: This use shall be limited to two (2) years, with an optional two (2) year extension.
    - (2) Permits:
      - (A) Temporary use permit approval from City zoning is required.
      - (B) A building permit is required for the model home.
    - (3) Parking:
      - (A) A gravel or paved parking area, sufficient in size to accommodate one off street parking space for each four hundred (400) square feet of office gross floor area must be provided.
      - (B) On street parking shall be restricted to the frontage of the subject lot or adjacent lots owned by the builder.
    - (4) Employees: A maximum of four (4) full time employees may work out of the model home at any one time.
    - (5) Public Notification: Written notice of the proposed facility shall be provided to the surrounding residents, property owners' and neighborhood association (if applicable) in accord with the City's standard public notification policy. The City shall consider the public comments in making a determination to approve or deny the permit application. Said notice shall be given in conjunction with the original application as well as for any subsequent extension request.
    - (6) Removal: The real estate office shall be removed from the model home at the expiration of the permit.
  - b. Real Estate Office Within Modular Building/Sales Trailer: A temporary real estate sales office, and/or business office for the builder, may be located within a modular building or sales trailer, on any lot within the boundaries of the development, for the purpose of marketing lots or homes within a specific development. These facilities will fall into one of two (2) types: a short term facility to be

used while the model home is under construction or a longer term facility to be used in lieu of a model home. The following criteria shall apply to these facilities:

(1) Short Term Facility:

(A) Time Frame: Allowed for a maximum of six (6) months.

(B) Permits:

(i) Temporary use permit approval from the Community Development Department is required prior to putting the facility in place. Said permit cannot be issued until the building permit for the model home has been applied for.

(ii) Proposed locations within the hillside area overlay zone will be reviewed in accord with the hillside area overlay zone review criteria for building permits.

(iii) A building permit for a temporary building is required to be obtained from Regional Building.

(C) Removal: The temporary sales trailer shall be removed from the site at the expiration of the permit.

(2) Long Term Facility:

(A) Time Frame: Two (2) years, with an optional two (2) year extension.

(B) Permits:

(i) Temporary use permit approval from the Community Development Department is required prior to putting the facility in place.

(ii) Proposed locations within the hillside area overlay zone will be reviewed in accord with the hillside area overlay zone review criteria for building permits.

(iii) A building permit for a temporary building is required to be obtained from Regional Building.

(C) Public Notification: Written notice of the proposed facility shall be provided to the surrounding residents, property owners' and neighborhood association (if applicable) in accord with the City's standard public notification policy. The City shall consider the public comments in making a determination to approve or deny the permit application. Said notice shall be given in conjunction with the original application as well as for any subsequent extension request.

(D) Appearance:

(i) The facility shall be entirely skirted to screen the tires and frame.

(ii) The exterior materials and colors will be compatible with the surroundings and shall be maintained in an aesthetic manner. Maintenance and appearance deficiencies, as identified by the Manager, shall be corrected within thirty (30) days of notice.

(iii) Entry decking and access ramps are required and shall meet all Building Code provisions.

(iv) A landscape plan must be submitted for review and approval in conjunction with the temporary use permit. Water conserving landscaping is encouraged along with planters, flower boxes, potted plantings, etc.



(E) Utilities: The facility shall be connected to water, wastewater and electric utilities.

(F) Parking:

(i) A gravel or paved parking area, sufficient in size to accommodate one off street parking space for each four hundred (400) square feet of gross office floor area must be provided.

(ii) On street parking shall be restricted to the frontage of the subject lot or adjacent lots owned by the builder.

(G) Employees: A maximum of four (4) full time employees may work out of the sales office at any one time.

(H) Removal: The temporary sales trailer shall be removed from the site at the expiration of the permit.

(3) Signage: Each model home or long term sales facility is allocated the following signage:

(A) One freestanding sign advertising the existence or location of the model home or sales facility not to exceed thirty two (32) square feet. Said sign must be placed within the boundaries of the subdivision in which the model home or sales facility is located and may be placed upon private property, with the property owner's permission, or within the public right of way, in conjunction with an approved revocable permit. In cases where there are multiple model homes or sales facilities being operated out of the same subdivision, the use of a consolidated directory type of sign is encouraged.

(B) Two (2) off site traffic directional signs, not to exceed four (4) square feet in area. Said signs may be placed within the public right of way in accord with an approved revocable permit, or on a private lot with the permission of the property owner.

(C) One wall or low profile sign not to exceed six (6) square feet; said sign to be located on the sales lot.

(D) All signs are to be removed with the expiration of the temporary use permit.

5. Seasonal Sale Of Agricultural Products And/Or Seafood: Limited to only the A, PBC, C-5, C-6, PIP-1, PIP-2, M-1 and M-2 zone districts for a period of time not to exceed four (4) months per year.

6. Amusement Enterprises: Carnival, circus, or menagerie as defined in chapter 2, article 2 of this Code, and amusement rides as defined in chapter 2, article 2 of this Code may be allowed in any zone for a period not to exceed fifteen (15) days provided that the Manager first determines that the use conforms to all of the criteria and regulations listed in this section.

7. Promotional Activities In Commercial And Industrial Zones Involving The Display Of Goods And Merchandise: May be conducted outside of enclosed buildings for a period of not more than two (2) consecutive weeks in any three (3) month period, not to exceed fifteen (15) days and is subject to the following condition:

a. No food or drink may be displayed outside the building except in accord with standards and prior written approval of the El Paso County Department of Public Health.

8. Temporary Display Of Merchandise: Retail businesses may display merchandise that is for sale within the building in the area immediately adjacent to the building without a temporary use permit. If

the sidewalk or the pedestrianway in front of the building is used for display of merchandise, a minimum width of four feet (4') must remain available for pedestrian use. A temporary use permit is required for display of merchandise away from the building or within a parking lot or adjacent area.

9. Temporary Vendors In Commercial Retail Centers: Temporary vendors are allowed to locate within C-5, C-6 and PBC zoned commercial retail centers, subject to a temporary use permit, under the following conditions:
  - a. The subject property shall be zoned C-5, C-6 or PBC, classified under section [7.3.202](#) of this chapter as a commercial center and occupied by retail uses.
  - b. The owner of the commercial retail center consents to the temporary use.
  - c. The approved development plan for the property shall illustrate the location for temporary vendors. If the approved development plan does not reflect an area for temporary vendors then a minor amendment to the development plan shall be required prior to, or concurrently with, the review of the temporary use permit. The review of the minor amendment to the development plan shall confirm that the temporary vendor use complies with the development plan review criteria as set forth in subsection [7.5.502E](#) of this article. Special emphasis shall be placed on the impact the temporary vendor use will have on the ability of the site to continue to comply with the parking, fire lane, pedestrian and vehicular circulation requirements.
  - d. No commercial retail center shall be allowed to contain more than three (3) temporary vendors, at any given time.
  - e. Signage for temporary vendors shall be limited to signs that comply with subsection [7.4.409E](#) of this chapter.
  - f. Any tents or temporary buildings associated with a temporary vendor use shall be subject to the approval of the Fire Department and Regional Building Department for compliance with relevant Fire and Building Codes.
  - g. Temporary uses involving the sale of food products shall be subject to the approval of the El Paso County Department of Health.
  - h. Temporary use permits for temporary vendors in commercial retail centers shall expire within twelve (12) months of the date of issuance but may be administratively renewed upon submittal of a new temporary use application and a finding that the application continues to comply with all relevant criteria.
  - i. A minor amendment to a development plan application accompanying a temporary use permit application shall be subject to the public notification procedures set forth in subsection [7.5.902C](#) of this article.
  - j. Noncompliance with the terms and conditions of the temporary use permit shall be grounds for revocation of the permit.
- J. Temporary Uses In The FBZ District: The allowance of and specific requirements for temporary uses may be included as a part of an FBZ regulating plan. (Ord. 94-107; Ord. 96-100; Ord. 01-42; Ord. 03-16; Ord. 04-19; Ord. 09-50; Ord. 09-76; Ord. 09-80)

#### **7.5.1404: CONDITIONS OF APPROVAL:**

In the allowance of such use, the Manager, Planning Commission or City Council shall have authority to require such reasonable conditions as necessary to protect the public health, safety and general welfare and to ensure that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected. (Ord. 94-107; Ord. 01-42; Ord. 03-16)

#### **7.5.1405: APPLICATION:**

Applicants for a temporary use permit shall submit a completed application form which contains such information as established by the Manager and complies with part 2 of this article. The application shall be reviewed administratively by the Manager who shall approve or deny the application within ten (10) working days of submittal. (Ord. 94-107; Ord. 01-42)

## **PART 15 HOME OCCUPATIONS**

#### **7.5.1501: PURPOSE:**

#### **7.5.1502: UNLAWFUL HOME OCCUPATIONS:**

#### **7.5.1503: HOME OCCUPATION PERMIT STANDARDS AND CRITERIA:**

#### **7.5.1504: ADMINISTRATIVE DETERMINATION OF HOME OCCUPATION:**

#### **7.5.1505: APPLICATION:**

#### **7.5.1506: CONDITIONS OF APPROVAL:**

#### **7.5.1501: PURPOSE:**

It is recognized that there is a desire by some residential dwelling unit owners or occupants, or both, to use a residence in a manner subordinate to its principal use as a residence. It is also recognized that these subordinate uses as home occupations, can increase rapidly and that such home occupations must be limited so as to not impair the use or value of the residential zone. It is the intent of this section to provide clear standards for home occupations in residential zones which will ensure compatibility with the residential purposes of the residential zones and ensure that there are no adverse effects on the residential character of the residential zone, and to not allow in residential zones those uses permitted in commercial and industrial zones except as specifically authorized by this section. The home occupation permit is a mechanism by which the City may allow a home occupation use to be located within the City. (Ord. 83-252; Ord. 86-124; Ord. 91-30; Ord. 94-107; Ord. 01-42)

#### **7.5.1502: UNLAWFUL HOME OCCUPATIONS:**

Home occupations shall be unlawful in residential zones unless all of the standards set forth in this section are met. It would be advisable to contact the Regional Building Department and the Colorado Springs Fire Department when considering any home occupation. Subtle changes in character or use can place the building into a different occupancy classification and/or set additional life safety requirements. Contact both the Regional Building Department and the Colorado Springs Fire

Department to determine their requirements to satisfy the City's adopted Building and Fire Code provisions. (Ord. 94-107; Ord. 01-42)

### **7.5.1503: HOME OCCUPATION PERMIT STANDARDS AND CRITERIA:**

The Manager may approve or modify and approve an application for a home occupation permit if the following standards and criteria are met:

- A. Nuisance Or Hazard: For purposes of this section, "disturb" means to unreasonably annoy, perturb or interfere with the quiet enjoyment of another's premises. The home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, congestion to traffic flow, parking problem, or any other nuisance or hazard which disturbs the peace and quiet of a residential zone.
  
- B. Residents: All persons employed by the home occupation business must reside on the premises.
  
- C. Signs: No sign may be used other than a sign identifying the home occupation, of which sign shall not be over two (2) square feet in area and must be attached to the dwelling. There shall be no illumination of the sign. Provided, however, that an unilluminated placard, sign, or card, not over two (2) square feet in area, in compliance with Colorado Revised Statutes 25-4-1614(3)(c), may be displayed at the point of sale for any cottage foods as permitted in subsection M of this section.
  
- D. Conduct Location Limitations: The home occupation shall be conducted only within an enclosed accessory structure, attached or detached garage, or dwelling, excluding porches, except that plants may be grown anywhere on the premises, and also excepting that the production and sale of raw, uncut, fresh produce and cottage foods may occur as permitted in subsection M of this section. The location of the conduct of the home occupation shall be limited to such location designated on the home occupation application.
  
- E. Area Limitations: The total area used for a home occupation shall not exceed an area equivalent to one-half ( $1/2$ ) the total first floor area of the user's dwelling, excluding porches. For cottage food production and sales under subsection M of this section, both the production and sales areas together cannot exceed this section.
  
- F. Secondary Use: The home occupation shall be secondary to the residential use of the dwelling.
  
- G. Outside Storage: No storage or display of materials, goods, supplies or equipment related to the operation of a home occupation or tangible personal property manufactured, or plants grown as a result of the home occupation and removed from the soil shall be allowed on porches or outside of the enclosed location designated on the home occupation application, except as permitted in subsection M of this section.

H. Off Street Parking: The required off street parking areas provided for the principal use as defined in article 4, part 2 of this chapter shall not be reduced or made unusable by the home occupation.

I. Delivery: The receipt or delivery of merchandise, goods, or supplies for use in a home occupation shall be limited to the United States mail, similar parcel delivery service, or private vehicles with a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds or less.

J. Alteration Limitations: Interior alterations or additions to the dwelling for the purpose of accommodating the home occupation are prohibited if such alterations or additions eliminate either the kitchen, dining area, bathrooms, living room, or all of the bedrooms of the dwelling.

K. No Exterior Alterations Or New Construction: Exterior alterations or additions to any building or structure or new construction for the purpose of accommodating the home occupation are prohibited if said alterations or additions are commercial in appearance.

L. Sales: Sales on the premises shall be only by the residents of the dwelling and shall occur only in the location designated on the home occupation application. Sales on the premises shall be limited to tangible personal property manufactured in the location designated on the home occupation application or plants grown anywhere on the premises. This standard shall not preclude the sale of tangible personal property or plants off the premises.

M. Raw, Uncut Produce And Cottage Food Sales: A home occupation permit may be issued for the production and sale of raw, uncut produce and cottage foods under the following criteria:

1. Raw, uncut, fresh produce, for purposes of this subsection, shall only include produce grown on the premises, and sales shall occur only in the location designated on the home application occupation permit from a temporary stand under this subsection.
2. Cottage foods, for purposes of this subsection, are foods provided for sale directly to "informed end user" consumers as set forth in Colorado Revised Statutes section 25-4-1614(2)(b). Production and sales of cottage foods on the premises shall occur only in the location designated on the home application occupation permit or from a temporary stand under this subsection.
3. Display and sales of raw, uncut fresh produce and cottage foods from a temporary stand are permitted from April through November with an approved home occupation permit.
4. Such display and sales from a temporary stand may occur only from eight o'clock (8:00) A.M. to dusk.
5. A temporary stand may not be larger than one hundred twenty (120) square feet, and any stand structure and inventory must be removed and stored indoors during nonsale months and hours.
6. Permit details must include the location and placement of any temporary stand to ensure that it does not pose a traffic sight visibility risk; moreover, temporary stands may not be located within any public right of way.

7. Only residents of the dwelling may engage in sales activity.

N. Massage Establishments: A home occupation permit may be issued for a home based massage therapist under the following criteria:

1. All client visits be on an appointment basis with a minimum of fifteen (15) minutes of space between appointments. This should limit the number of client vehicles present on the site to one.
2. The massage therapist and the massage establishment must be properly licensed with the City Clerk's Office.

O. Prohibited Uses: The following uses by the nature of the investment or occupation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby substantially impair the use and value of a residentially zoned area for residential purposes. The uses specified below are prohibited as home occupations provided that such prohibition shall not include a telephone answering service for such uses:

1. Motor vehicle repair and/or service.
2. Barbershop which is designed to serve more than one customer at a time or serves more than one customer at a time.
3. Beauty salon which is designed to serve more than one customer at a time or serves more than one customer at a time.
4. Instruction to more than three (3) persons at a time.
5. Paint shops using spray painting equipment.
6. Medical marijuana facility, to the extent the facility is not subject to the medical marijuana exception pursuant to subsection [7.3.105P](#) of this chapter. (Ord. 94-107; Ord. 01-42; Ord. 10-107; Ord. 16-97)

#### **7.5.1504: ADMINISTRATIVE DETERMINATION OF HOME OCCUPATION:**

Upon request for a determination of a home occupation, the Manager may make an administrative determination concerning whether a proposed use meets the standards for a home occupation as set forth in this part. Prior to making such determination, the Manager may require any information deemed necessary to make a determination under these standards. (Ord. 94-107; Ord. 01-42)

#### **7.5.1505: APPLICATION:**

Applicants for a home occupation shall submit a completed application form which contains such information as established by the Manager and complies with part 2 of this article. The application shall be reviewed administratively by the Manager who shall approve or deny the application within ten (10) working days of submittal. (Ord. 94-107; Ord. 01-42)

#### **7.5.1506: CONDITIONS OF APPROVAL:**

In the allowance of such use, the Manager, Planning Commission or City Council shall have authority to require such reasonable conditions as necessary to protect the public health, safety and general welfare and to ensure that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected. (Ord. 94-107; Ord. 01-42; Ord. 03-16)

## **PART 16 HISTORIC PRESERVATION**

**7.5.1601: HISTORIC PRESERVATION BOARD:**

**7.5.1602: DEFINITIONS:**

**7.5.1603: DESIGNATION PROCESS FOR HISTORIC PRESERVATION OVERLAY ZONING:**

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**7.5.1610: LIEN ASSESSMENT:**

**7.5.1601: HISTORIC PRESERVATION BOARD:**  

A. Creation: There shall be and hereby is created a Historic Preservation Board, hereafter called the "Board".

B. Purpose: The Board shall among the other responsibilities provided for in this section:

1. Survey, inventory and identify historically and architecturally significant structures and areas within the City;
2. Recommend to Council designation of historic structures and areas for historic preservation zoning;
3. Review and take action on applications for rehabilitation, alteration or demolition of historic buildings, or construction of new buildings and other structures including signs in historic preservation zones;
4. Make recommendations regarding zoning amendments and comment on the Comprehensive Plan;
5. Undertake educational programs and activities;
6. Make recommendations regarding City Code provisions pertaining to historic preservation;

7. Develop and possibly adopt design guidelines to identify characteristics of resources worthy of preservation and identify policies which will assist in the preservation and enhancement of those resources;
8. Prepare a historic preservation plan;
9. Make recommendations to the Planning Commission on relief to preserve historic resources as set out in section [7.3.505](#) of this chapter.
10. Develop and recommend for Council adoption design standards to establish criteria for use by the Board in the consideration of an application for a report of acceptability for properties with HP historic preservation overlay zoning.

C. Composition: The Board shall consist of seven (7) members. Initial appointments shall be staggered so that no more than three (3) members' terms expire in the same year. Thereafter, appointments shall be for three (3) year terms, with no more than one reappointment, after which there must be a one year absence before another appointment.

D. Appointments:

1. All appointments shall be made by the City Council. In making appointments to the Board, the City Council shall give due consideration to maintaining a balance of interests and skills in the composition of the Board and to the individual qualifications of the candidates, including, but not limited to, their training, experience, knowledge or proven interest in any one or more of the following fields: landscape architecture; architecture; history; archaeology; general contracting; building trades; urban planning; mortgage lending; real estate; urban design; fine arts; law; business; economics; and engineering.
2. The City Council may advertise for candidates for the Board for the purpose of making appointments and filling vacancies which occur from time to time.

E. Officers And Rules: The Board shall elect a chairman and such other officers as it may require. The Board shall make and adopt rules for governing its work, and it shall conduct its business in accord with its own rules, and if none are adopted then the rules of Council shall constitute the Board's rules.

F. Meetings: The Board shall conduct business at regular meetings or at any special meeting as called by the chairman. The schedule for regular meetings shall be established at the annual meeting held every June. The bylaws shall specify the time for said annual meeting.

G. Quorum; Action: No official business of the Board shall be conducted unless a quorum of not less than four (4) members is present. The concurring vote of at least a simple majority of the quorum is necessary to constitute an official act of the Board.



H. Compensation: Members of the Board shall serve without compensation. To the extent authorized by the City Council, members may be reimbursed for expenses necessarily incurred incidental to their duties for the Board.

I. Rules And Regulations: The Board shall have the power to make whatever rules, including, but not limited to, design standards, as are necessary for the execution of its duties as set forth in this Zoning Code. All such rules shall be approved by the City Council by resolution before becoming effective.

J. Staff: The staff of the Community Development Department shall provide support to the Board as necessary.

K. Conflict Of Interest: No member of the Board or staff shall participate in any matter before the Board in which the member has a direct or indirect financial interest. (Ord. 90-9; Ord. 91-30; Ord. 92-79; Ord. 94-107; Ord. 95-121; Ord. 01-42; Ord. 09-80)

#### **7.5.1602: DEFINITIONS:**

For the purposes of this part and of section [7.3.505](#) of this chapter, the following terms shall have the meanings indicated:

**ACQUISITION:** The act or process of acquiring fee title or interest other than fee title of real property including the acquisition of development rights or remainder interest.

**ALTERATION:** Any act or process which changes one or more of the exterior architectural features of a structure in a historic preservation zone.

**DEMOLITION:** Any act or process that destroys in part or in whole a structure in a historic preservation zone.

**DESIGN GUIDELINES:** Written statements, explanatory material, graphic renderings, and/or photographs which are intended to inform property owners and the public of historic characteristics suitable for preservation, and techniques and materials appropriate to achieve that goal.

**DESIGN STANDARDS:** Written statements adopted by City Council resolution as criteria for use by the Board in the consideration of an application for a report of acceptability for properties with historic preservation overlay zoning.

**HISTORIC, HISTORIC AREA, LANDMARK OR DISTRICT:** Any Council designated site, structure, object or improvement and its surrounding environs or a group of sites, structures, objects or improvements, or both, and their surrounding environs:

- A. Which has a special character or special historic or aesthetic interest or value as part of the development, heritage or cultural characteristics of the City, State or nation, or
- B. Wherein any event of major historic significance with a measurable effect upon society took place, or
- C. Which is closely identified with a person or group of persons who have had some measurable influence on society, or

- D. Wherein the broad cultural, political, economic or social heritage of the community is exemplified, or
- E. Which faithfully portrays the environment of a group of people in an era of history characterized by a distinctive architectural style or which embodies those distinguishing characteristics of an architecturally recognized detail or which is the work of an architect or builder whose individual work has influenced the development of the City, or
- F. Which, because of being a part of or related to a park, square, or other distinctive area should be developed or preserved according to a plan based upon its historic, cultural, or architectural significance, or
- G. Which, due to the unique location or singular physical characteristic, represents an established, familiar and significant visual feature of the neighborhood, community or City, and
- H. Which is officially zoned historic preservation overlay pursuant to the provisions of this Zoning Code.

**MAJOR WORK:** Any work that will alter any distinctive feature or improvement of the historic structure.

**MINOR WORK:** Any work that will not alter any distinctive feature or improvement of the historic structure.

**NATIONAL HISTORIC LANDMARK:** Buildings, historic districts, structures, sites and objects which possess exceptional value or quality in illustrating or interpreting the heritage of the United States and as such are maintained by the Secretary of the Interior.

**NATIONAL REGISTER:** The National Register of Historic Places. It is a register of districts, sites, buildings, structures, and objects of national, State, or local significance in American history, architecture, archaeology, and culture that is expanded and maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 USC 461) and section 101(a)(1) of the National Historic Preservation Act implemented through 36 CFR part 60. The national register is published in its entirety in the federal register each year in February. Addenda are usually published on the first Tuesday of each month.

**PRESERVATION:** The act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials.

**PROTECTION:** The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment.

**RECONSTRUCTION:** The act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

**REHABILITATION:** The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

**REPAIR AND MAINTENANCE:** Work done on a structure or object in order to correct any deterioration, decay or damage to any part thereof in order to restore the same, as nearly as practical, to its condition prior to such deterioration, decay or damage.

**RESTORATION:** The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

**STABILIZATION:** The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

**STRUCTURE:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. (Ord. 88-228; Ord. 90-9; Ord. 91-30; Ord. 94-107; Ord. 01-42)

## **7.5.1603: DESIGNATION PROCESS FOR HISTORIC PRESERVATION OVERLAY**

### **ZONING:**

#### A. Initiation Of Procedure:

1. **Owner Initiated Procedures:** The owner of property seeking a historic preservation overlay for that property may initiate the procedure for such zoning by filing an application for zoning with the Board. The Board shall within a reasonable period of time act on the application filing by determining if the property is eligible for historic preservation zoning and, if so, it shall adopt a resolution recommending to the City Planning Commission and City Council, historic preservation overlay zoning without the necessity of notice required by subsection B of this section.
2. **Board Initiated Procedures For Historic Preservation Overlay Zoning:**
  - a. The Board may initiate procedures for historic preservation overlay zoning on a property when, in the opinion of the Board, the site, structure, object or area meets the criteria for historic preservation overlay zoning. To initiate procedures, the Board shall attempt to contact the record owner or owners of the property as shown in the records of the El Paso County Assessor by mailing to the owner or owners, at the owner's address shown in the records of the El Paso County Assessor, first class mail, postage prepaid, a first request for consent to the zoning outlining the reasons and effects of historic preservation overlay zoning and requesting the owner's written consent to historic preservation overlay zoning on the property.
  - b. If the first class mailing is returned to the Board by the United States Postal Service, or no response from the owner is received by the Board within thirty (30) days of the date the request was mailed, the Board shall again attempt to contact the record owner or owners of the property by mailing to the owner or owners, first class mail with a certificate of mailing, postage prepaid, a second request for consent to the zoning outlining the reasons and effects of historic preservation overlay zoning and requesting the owner's written consent to historic preservation overlay zoning on the property.
3. **No Consent; No Response:** If any owner of the property does not consent to historic preservation overlay zoning of the property within thirty (30) days of the date the first request was mailed by the Board, or, in the event the first request to an owner was returned by the United States Postal Service, if no response or consent is received from that owner of the property within thirty (30) days of the date the second request was mailed by the Board, the Board, upon an affirmative vote of at

least four (4) of its members, may proceed by officially adopting a resolution stating that the preliminary investigation by the Board indicates that the described property is eligible for historic preservation overlay zoning.

4. Owner Consent: In the event the owner consents in writing to historic preservation overlay zoning, the Board, upon the affirmative vote of a majority of the members present, shall adopt a resolution recommending to the City Planning Commission and City Council historic preservation overlay zoning without the necessity of notice required by subsection B of this section.
5. Application: All applications submitted in accord with this section shall include a description of the property proposed for zoning and a detailed outline of the reasons why such property should be designated and why the boundaries of said property should be determined as described in the application.
6. Disapproval: Whenever a change of zone has been finally disapproved by the Historic Preservation Board, Planning Commission or City Council, the Board, Commission or City Council shall not consider any further application for the same change in zone affecting the same property or a part thereof for a period of twelve (12) months from the final action of disapproval.

B. Notice Of Hearing: Notice of Board consideration of historic preservation overlay zoning hearing shall be given as follows:

1. Written notice of the time, date, place and subject of the hearing shall be sent to the owner or owners of record who own the real property being proposed for inclusion within the historic preservation overlay zone, at the owner's address shown in the most recent records of the El Paso County Assessor, by first class mail, with certificate of mailing, not less than twenty seven (27) days prior to the hearing. The notice shall be deemed delivered upon the passage of six (6) days from the deposit of the notice in the United States mail.
2. A sign(s) indicating that historic preservation overlay zoning is being considered by the Board shall be posted by the Board for a period of not less than fifteen (15) days immediately preceding the hearing.
  - a. Where an individual property is proposed for historic preservation overlay zoning, such sign or signs shall be prominently displayed and easily readable from abutting public ways.
  - b. Where two (2) or more adjacent properties are being considered for historic preservation overlay zoning, such sign or signs may be prominently displayed in the public ways entering the perimeter of the district comprising those properties, or each property within the district may be individually posted in accord with this section at the Manager's discretion.
3. A legal notice indicating the nature of the hearings, the property involved and the time, date and place of the scheduled public hearing shall be published in a newspaper of general circulation one time at least fifteen (15) days prior to the hearing.

C. Interim Control: No building permit shall be issued by the Building Official for alteration, relocation, demolition or new construction on a site, or for a structure or object under consideration for historic preservation overlay zoning from the date of the hearing of the Board at which zoning is first presented for consideration of any kind until final disposition of the zoning by the City

Council unless such alteration, relocation, demolition or new construction is authorized in accord with the provisions of this section.

D. Hearing: The hearing shall be held within sixty three (63) days after submission of a complete application by the owner or motion of the Board for initiation of the historic preservation overlay zone. All hearings shall be recorded. Written presentations, including the report of the Community Development Department shall be included in the record of the hearing. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed zoning. However, nothing contained herein shall be construed to prevent the Board from establishing reasonable rules to govern the proceedings of the hearings or from establishing reasonable limits on the length of individual presentations. If any hearing is continued, the time, date and place of the continuation shall be established and announced to those present when the current session is to be adjourned; and such information shall be promptly forwarded, by regular mail, to the owners of record as established and addressed pursuant to subsection B1 of this section.

E. Findings And Recommendations Of The Board:

1. The Board shall act officially on each proposed historic preservation overlay zone at the conclusion of the hearing.
2. The Board may approve, reject or modify any proposal, but no proposal may be extended beyond the boundaries of the land described in the original resolution unless the initiation and hearing procedure is repeated for the enlarged boundaries.
3. As provided for in section [7.3.505](#) of this chapter the Board may recommend, upon demonstration of need, one or more of the following conditions of record:
  - a. Reduction of front, side and rear yard setbacks to conform to neighborhood standards;
  - b. Allowance of unparking vehicles to back across property lines for parking spaces accessed from an alley so long as such unparking vehicles are visible from both directions in the alley;
  - c. Allowance of one hundred percent (100%) of all required off street parking spaces as compact spaces;
  - d. Allowance of tandem parking spaces;
  - e. Allowance of off street parking spaces within three hundred feet (300') of the historic resource;
  - f. If relief allowed under subsections E3b through E3e of this section is insufficient to preserve the subject historic resource, a reduction of up to fifty percent (50%) of the minimum of off street parking spaces required by article 4, part 2 of this chapter may be recommended if determined necessary by the Board to preserve a historic resource;
  - g. Waiver of building height limitations to conform to neighborhood standards.
4. The Board shall set forth in its records the findings of fact which constitute the basis for its decision. If the Board fails to reach a decision, the designation shall be deemed to have been rejected and the

designation procedure shall thereby be terminated, unless a continuance is agreed to by a majority of the members of the Preservation Board present, and a majority of those property owners receiving notice as required by this section who are present at the hearing.

F. Transmittal To City Planning Commission: Within fifteen (15) days after reaching its decision, the Board shall transmit to the City Planning Commission through the Manager only a recommendation to impose historic preservation overlay zoning, including the description of the property involved, the findings upon which the recommendation is based, specific design standards addressing proposed alterations to the property, and any other appropriate conditions of record.

G. City Planning Commission Action: Upon receipt of the zoning recommendation of the Board, the application shall be scheduled for consideration by the Planning Commission.

H. City Council Action: Upon receipt of any recommendation of the City Planning Commission for historic preservation overlay zoning or an appeal, the City Council may after hearing, by ordinance designate the property in a historic preservation overlay zone.

I. Final Notification To Owner: Within ten (10) days after the adoption of the historic preservation overlay zoning ordinance, the City Clerk shall send to the owner of each property so zoned by first class mail a letter outlining the reasons for the designation and the obligations and restrictions created by the zoning. The letter shall also contain a request that the owner and the owner's heirs, successors and assigns notify the Board prior to:

1. Plans Of Reconstruction: Preparation of plans of the reconstruction or alteration of the exterior or improvements located on the property; or
2. Plans For Construction: Preparation of plans for the reconstruction, alteration, relocation, or demolition of improvements on the property.

J. Notification To Regional Building Department: Within ten (10) days after City Council's adoption of a historic preservation overlay ordinance, the Secretary of the Board shall notify the Regional Building Department in writing and the Regional Building Department shall retain a record of this notification. (Ord. 88-228; Ord. 90-9; Ord. 90-70; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 07-35; Ord. 09-80)

#### **7.5.1604: AMENDMENT OR RESCISSION OF ZONING:**

A historic preservation overlay zone may be amended in the same manner as the original designation was made. A historic preservation overlay zone may be repealed by Council by ordinance adopted pursuant to Charter. (Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42)

#### **7.5.1605: CONSTRUCTION, ALTERATION, DEMOLITION OR RELOCATION OF DESIGNATED RESOURCES:**

A. Work Requiring Building, Demolition, Moving Or Sign Permit: Action on an application for a building, demolition, moving or sign permit for properties within the historic preservation overlay zone shall be deferred by a Regional Building Official except as provided in subsection H of this section, until the application is accompanied by a report of acceptability from the Board for the proposed work when the proposed work involves any of the following which are visible from a public right of way:

1. Alteration or reconstruction of or addition to the exterior of any structure including signs, or improvement which is within a historic preservation overlay zone for which a building permit is required.
2. Demolition or relocation of any structure including signs or improvement or object to or from a historic preservation overlay zone for which a permit is required.
3. Construction or erection of or addition to any structure including signs or improvement upon any land which is within a historic preservation overlay zone for which a permit is required.

B. Application For Report Of Acceptability:

1. Minor Work: Minor work is any work that will not alter any distinctive feature or any improvement of the historic structure. In order to obtain a report of acceptability for minor work, the applicant shall submit with the application for a building permit such documentation as determined necessary by the Board. A minor work committee of the Board, consisting of three (3) members of the Preservation Board, shall review the application for a report of acceptability for minor work within eighteen (18) working days after its receipt. If the minor work submitted by a majority vote finds that the proposed work is of a nature that will not erode the authenticity of or destroy any distinctive exterior feature of the structure of improvement and is compatible with both the distinctive characteristics of the historic preservation overlay zone and with the spirit and purpose of the Zoning Code, the minor work committee shall so advise the applicant in writing by issuing a report of acceptability and shall affix the Board's seal to the plans and specifications for the proposed work.
2. Major Work: Major work is any work referred to the Board by the minor work committee upon finding the proposed work will alter any distinctive feature or any improvement of the historic structure. The Board shall act on the application for a report of acceptability within twenty eight (28) days after its receipt by the Board.

C. Board Approval Of Proposed Work: If upon receipt of an application for a report of acceptability pursuant to subsection B of this section, the Board finds that the proposed work is of a nature which will not erode the authenticity of or destroy any distinctive exterior feature of the structure or improvement and is compatible with both the distinctive characteristics of the historic preservation overlay zone and with the spirit and purpose of this Zoning Code, the Board shall so advise the applicant in writing by issuing a report of acceptability and shall affix its seal to the plans and specifications for the approved work. Upon receipt of the Board's report of acceptability and plans and specifications, the Regional Building Official may proceed with the review of the application for a building permit. No change which would defeat the purpose of this Zoning Code shall be made in an application for a building permit or the plans and specifications for the proposed work approved by the Board without resubmittal to the Board and approval of such changes in the same manner as the original application. In determining the decision to be made concerning the issuance of a report of acceptability, the Board shall consider the following criteria:

1. The effect of the proposed work upon the general historical and/or architectural character of the historic preservation overlay zone.
2. The architectural style, arrangement, texture and materials of existing and proposed structures, and their relation to the structures in the historic preservation overlay zone.
3. The effects of the proposed work in creating, changing or destroying the exterior architectural features of the structure upon which such work is to be done.
4. The effect of the proposed work upon the protection, enhancement, perpetuation and use of the historic preservation overlay zone.

D. Action Of The Board On Unacceptable Work On Property Other Than On The National Register Of Historic Places: If the proposed work is not found acceptable, the Board shall explore with the applicant all means for substantially preserving the improvement which would have been affected by the required permit. This decision to investigate other ways to preserve a designated resource may be appealed to City Council. If the Board and applicant, after a period of ninety (90) days from the date of receipt of the application by the Board regarding the appropriateness of the desired change are unable to develop either alternative plans or an appropriate public or private use for the structure, the Board shall affirmatively act to set out reasons for the inability of the Board and applicant to agree, and the applicant may obtain the appropriate permit from the Regional Building Official to do as the applicant desires as long as the applicant's request complies with all other city codes. The investigations by the Board with the applicant under this section may include, by way of example and not of limitation:

1. Feasibility of modification of the plans.
2. Feasibility of any alternative private use of the structure or structures which would substantially preserve the original character thereof.
3. The possibility of public acquisition of the structure or structures involved for a public purpose.

E. Action Of The Board On Unacceptable Work On Property Listed In The National Register Of Historic Places: If the proposed work is not found acceptable, the Board shall explore with the applicant all means for substantially preserving the improvement which would have been affected by the required permit. No demolition or alteration of property listed in the National Register of Historic Places, except as provided in this section shall be permitted unless the Board first finds that an unreasonable economic or noneconomic hardship will result to the owner if not allowed to demolish or otherwise alter. If the proposed work is not approved by the Board, the applicant shall be so advised and no building permit shall be issued unless a certificate of hardship has been issued. No reapplication shall be submitted pursuant to this part under the plans and specifications found unacceptable by the Board except upon a showing of changed circumstances sufficient to justify the reapplication as determined by the Board.

F. Determination Of Economic Hardship: If the Board denies approval of an application for a report of acceptability, it may, upon application or on its own motion, consider issuing a certificate of economic hardship.



1. Application And Hearing; Notice And Procedure: If the Board denies approval of an application for acceptability, the Board may, upon application or on the Board's own motion, consider issuing a certificate of economic hardship. The applicant must, however, submit the application to the Secretary of the Board within ten (10) days of the Board's decision denying approval of the application for acceptability. Upon application or motion for a certificate of economic hardship, the Board shall schedule a public hearing on that application or motion. The public hearing shall be scheduled for the next regular meeting of the Board or may be scheduled as a special meeting of the Board. The hearing shall be noticed to the public as an item on the Board's agenda. The Board shall determine who may present evidence or testimony during the hearing. The hearing may be continued provided that, prior to the adjournment or recess of the Board meeting, a clear announcement is made by the Board specifying the date, time and place at which the hearing will be continued. Any action of the Board approving or denying an application or motion for economic hardship shall be made in open session by a majority vote with at least four (4) Board members present during the vote. The Board's decision to approve or deny shall set forth the Board's findings of fact and, in the event of approval, shall include any special conditions of approval considered by the Board to be necessary to mitigate impacts upon and protect the intent and spirit of this part and the Zoning Code. The Board's decision may be appealed to City Council.
  2. Data To Be Provided By The Applicant: The Board may solicit expert testimony or require that the applicant for a certificate of economic hardship make submissions of information before rendering its decision.
  3. Determination Of Economic Hardship: The Board shall review all of the evidence and information required of an applicant for a certificate of economic hardship and if the Board finds that without approval of the proposed work the property owner cannot obtain any reasonable economic return, not just profit, on the property, the Board shall:
    - a. Make a finding that denial of approval of the proposed work would impose an economic hardship on the property owner; and
    - b. Immediately issue a certificate of economic hardship and proceed as in this section.
    - c. At its discretion, postpone the issuance of the certificate of economic hardship.
- (1) This suspension period shall not exceed thirty (30) days unless otherwise agreed to by the applicant. During this suspension period, the Board shall investigate plans and make recommendations to the City Council to allow the property owner a reasonable economic return from the property, or to otherwise preserve the subject property. Such plans and recommendations may include, but are not limited to, a relaxation of the provisions of this section, financial assistance, Building Code modifications and/or changes in zoning regulations.
  - (2) The Board may request an extension of the suspension period by the City Council. If the City Council determines that there is a program or project underway which could result in public or private acquisition of the building or structure and the preservation or restoration of such building or structure, and that there are reasonable grounds to believe that the program or project may be successful, the Council may extend the suspension period for an additional period for a total suspension period of not more than ninety (90) days from the date of application for a regulated permit.
  - (3) If at the end of the suspension period:

- (A) The Board finds that, after review of all of the alternatives, without authorization of the proposed work or demolition, the property owner still cannot obtain any reasonable economic return from the property; and
- (B) The applicant has not withdrawn his/her application for a building permit; and
- (C) The applicant otherwise complies with the codes of the City;

then the Board shall issue a certificate of economic hardship authorizing the work or demolition.

If the Board finds otherwise, it shall deny the application or motion for a certificate of economic hardship.

G. Determination Of Noneconomic Hardship: After the Board denies an application for a report of acceptability submitted by an applicant acting in a religious, charitable or otherwise not for profit tax exempt capacity, it may, upon application or on its own motion, consider issuing a certificate of noneconomic hardship.

1. Application And Hearing; Notice And Procedure: If the Board denies an application for a report of acceptability which was submitted by an applicant acting in a religious, charitable or otherwise not for profit tax exempt capacity, the Board may, upon application or on the Board's own motion, consider issuing a certificate of noneconomic hardship. The applicant must, however, submit the application to the Secretary of the Board within ten (10) days of the Board's decision denying approval of the application for acceptability. Upon application or motion for a certificate of noneconomic hardship, the Board shall schedule a public hearing on that application or motion. The public hearing shall be scheduled for the next regular meeting of the Board or may be scheduled as a special meeting of the Board. The hearing shall be noticed to the public as an item on the Board's agenda. The Board shall determine who may present evidence or testimony during the hearing. The hearing may be continued provided that, prior to the adjournment or recess of the Board meeting, a clear announcement is made by the Board specifying the date, time and place at which the hearing will be continued. Any action of the Board approving or denying an application or motion for noneconomic hardship shall be made in open session by a majority vote with at least four (4) Board members present during the vote. The Board's decision to approve or deny shall set forth the Board's findings of fact and, in the event of approval, shall include any special conditions of approval considered by the Board to be necessary to mitigate impacts upon and protect the intent and spirit of this part and the Zoning Code. The Board's decision may be appealed to City Council.
2. Data To Be Provided By The Applicant: The Board may solicit expert testimony or require that the applicant for a certificate of noneconomic hardship make submissions of information before rendering its decision.
3. Determination Of Noneconomic Hardship: The Board shall review all of the evidence and information required of an applicant for a certificate of noneconomic hardship and if the Board finds that without approval of the proposed work the property is either substantially inadequate for the owner's legitimate needs, or either physically and/or financially prevents or seriously interferes with the owner's religious, charitable or otherwise not for profit purpose, the Board shall:
  - a. Make a finding that denial of approval of the proposed work would impose a noneconomic hardship on the property owner; and
  - b. Immediately issue a certificate of noneconomic hardship and proceed as in this section.

c. At its discretion, postpone the issuance of the certificate of noneconomic hardship.

- (1) This suspension period shall not exceed thirty (30) days unless otherwise agreed to by the applicant. During this suspension period, the Board shall investigate plans and make recommendations to the City Council to render the property adequate for the owner's legitimate needs, or remove serious physical or financial interference with the owner's religious, charitable or otherwise not for profit purpose, or to otherwise preserve the subject property. Such plans and recommendations may include, but are not limited to: a relaxation of the provisions of this section, financial assistance, Building Code modifications and/or changes in zoning regulations.
- (2) The Board may request an extension of the suspension period by the City Council. If the City Council determines that there is a program or project under way which could result in public or private acquisition of the building or structure and the preservation or restoration of such building or structure, and that there are reasonable grounds to believe that the program or project may be successful, the Council may extend the suspension period for an additional period for a total suspension period of not more than ninety (90) days from the date of application for a regulated permit.
- (3) If at the end of the suspension period:
  - (A) The Board finds that, after review of all of the alternatives, without authorization of the proposed work or demolition, the property owner still cannot adequately use the property for legitimate needs, or is either physically and/or financially prevented or seriously hindered from advancing religious, charitable or otherwise not for profit purposes; and
  - (B) The applicant has not withdrawn his/her application for a building permit; and
  - (C) The applicant otherwise complies with the codes of the City;

then the Board shall issue a certificate of noneconomic hardship authorizing the work or demolition.

If the Board finds otherwise, it shall deny the application or motion for a certificate of noneconomic hardship.

H. Remedying Of Dangerous Conditions: In any case where the Regional Building Official, the Fire Department, or any other public authority having the power to do so orders or directs the construction, reconstruction, alteration, repair, relocation or demolition of any structure in a historic preservation overlay zone for the purpose of remedying conditions determined by that official, department or authority to be imminently dangerous to life, health or property, nothing contained herein shall be construed as making it unlawful for any person to comply with such order. Any such official, department or authority shall take immediate steps to notify the Board of the issuance of any such order or directive and may include in such order or directive any timely received requirements or recommendations of the Board.

I. Waiver Of Conditions: Upon a showing of substantial hardship or to protect against an arbitrary result, or both, the Board may waive such conditions and requirements as are set forth in this Zoning Code, provided that the spirit and purpose of this Zoning Code are not significantly eroded.

J. Limitation On Further Application: Whenever a request for a report of acceptability, determination of economic hardship or determination of noneconomic hardship has been finally disapproved by the Board, or if appealed, by the City Council, no further application shall be made for a report of acceptability, economic hardship or noneconomic hardship affecting the same property, or a part thereof, for a period of twelve (12) months from the date of the final action of disapproval. A property owner may apply to the Board for an exception to this limitation by specifying and showing that, due to a change of circumstances and the existing condition of the property, a request for a report of acceptability, determination of economic hardship or determination of noneconomic hardship is substantially different from the previous application. The decision of the Board denying an exception may be appealed to the City Council.

K. Appeal Of Decisions: Decisions of the Board regarding any application under this section may be appealed to City Council in accord with the procedures set forth in part 9 of this article. (Ord. 88-228; Ord. 90-9; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 07-35)

#### **7.5.1606: NORMAL MAINTENANCE AND REPAIR:**

Nothing in this Zoning Code shall be construed to prohibit the accomplishment of any work on a structure in a historic preservation overlay zone which will neither change the exterior appearance nor the exterior architectural features of improvements or structures, nor the character or appearance of the land itself, and which is considered necessary as a part of normal maintenance and repair. (Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42)

#### **7.5.1607: NOTIFICATION OF STATE OR NATIONAL DESIGNATION:**

The Manager shall promptly notify the Board of any known National or State designations of landmark structures or landmark districts within the City. (Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42)

#### **7.5.1608: ENFORCEMENT:**

Enforcement of this part shall be a matter of zoning enforcement. Appeals from notices and orders alleging violations of the provisions of this part shall be heard by the Planning Commission or City Council in accord with part 9 of this article. The Planning Commission or City Council, on appeal, shall have the power after hearing to order restoration of the building, structure, site or object to its appearance or setting prior to the violation. In addition, if any violation of the provisions of this part are by persons licensed or registered under chapter 2 of the Building Code, suspension or revocation proceedings may be commenced under the provisions of chapter 2 of the Building Code. (Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 03-16; Ord. 05-135)

#### **7.5.1609: FAILURE TO COMPLY WITH ORDER TO RESTORE:**

- A. It shall be unlawful for any person to fail or refuse to comply with any order issued to him pursuant to this part.
  
- B. In the event that any order issued pursuant to this part is not complied with at such reasonable time as is specified therein, the Manager of the Community Development Department, after notice to the owner, or agent of the owner or occupant, may direct restoration through private contract. The procedures outlined in this Code for the collection of the cost and expenses thereof

shall apply independently and in addition to the penalty provided by this Code for violation of any provisions of this Zoning Code. (Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 09-80)

#### **7.5.1610: LIEN ASSESSMENT:**

In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the cost and expenses for the restoration, a lien may be assessed against the property for such cost in accord with this Code.

If the application of any provision of this part to any lot, building or other structure or a tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that lot, building or other structure or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered, and such decision shall not affect, impair or nullify this section as a whole or the application of any provision thereof to any other lot, building or other structure or tract of land.

See the Building Code for historic buildings that the Regional Building Official may authorize repairs, alterations or additions necessary for preservation that are not in conformance with requirements of technical codes.

See section RBC112 (dangerous buildings) of the Building Code, which provides for a just, equitable and practical method for dealing with dangerous buildings. (Ord. 88-228; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 05-135)

## **PART 17 SHORT TERM RENTAL UNIT**

### **7.5.1701: PURPOSE:**

### **7.5.1702: SHORT TERM RENTAL UNIT PERMIT REQUIRED:**

### **7.5.1703: APPLICATION:**

### **7.5.1704: SHORT TERM RENTAL UNIT PERMIT REVIEW CRITERIA:**

### **7.5.1705: CONDITIONS OF APPROVAL:**

### **7.5.1706: RULES AND REGULATIONS:**

### **7.5.1707: PERMIT SUSPENSION OR REVOCATION:**

#### **7.5.1701: PURPOSE:**

The purpose of the short term rental unit permit is to facilitate the permitting of short term rental units subject to appropriate restrictions and standards and to allow for varied accommodations and experiences for visitors while retaining the character of residential neighborhoods. (Ord. 18-112)

#### **7.5.1702: SHORT TERM RENTAL UNIT PERMIT REQUIRED:**

A. It shall be unlawful for any person to operate any short term rental unit without a valid short term rental unit permit, as approved by the Manager.

- B. The short term rental unit permit does not run with the property, but is issued to the specific owner of the property. The permit shall expire upon sale or transfer of the property. The permit shall not be transferred or assigned to another individual, person, entity, or address but may be managed by a third party on behalf of the owner.
  
- C. The short term rental unit permit is valid for one year from the date of issuance. The permit may be renewed for additional one year periods. (Ord. 18-112)

**7.5.1703: APPLICATION:**  

A. Applicants for a short term rental unit permit, including applicants for renewal, shall submit a completed application form which contains such information as required by the Manager, and shall pay all fees required for a permit application. The application shall be reviewed administratively by the Manager who shall approve or deny the application within ten (10) days of submittal.

B. The permit application or renewal application shall include:

1. Standard City application;
2. Safety self-inspection certification;
3. Sales Tax license customer ID;
4. The name, address and contact information including a 24-hour contact phone number for the owner or the owner's property manager or agent within El Paso County or a Colorado Springs resident who can be contacted in the event of an emergency and respond within one hour;
5. Proof of insurance;
6. Proof that short term rental unit permit review criteria will be met; and
7. A statement that the owner has read and understands the rules and regulations for a short term rental unit set forth in this part. (Ord. 18-112)

**7.5.1704: SHORT TERM RENTAL UNIT PERMIT REVIEW CRITERIA:**  

The Manager may approve or approve with conditions an application for, or renewal of, a short term rental unit permit if the following criteria and specific regulations are met:

A. Sleeping quarters for short term tenants shall not be in non-residential areas within buildings or accessory structures (e.g., shed, garage, etc.) that do not contain finished living space; or in commercial (office/retail) or industrial (warehouse) spaces; or outdoors (e.g., tent, etc.); or in a recreational vehicle.

- B. Limit one short term rental unit within each lawful dwelling unit located on a property, up to a maximum of four (4) short term rental units per property; or in the event of condominiums or buildings held in similar common ownership, each owner shall be limited to two (2) short term rental units per property. Entities under common control shall be considered a single owner for the purpose of evaluating ownership of dwelling units.
  
- C. The owner shall obtain a Sales Tax license from the City's Sales Tax Office.
  
- D. The owner shall maintain weekly residential trash collection services and be in compliance with section [6.4.104](#) of this Code.
  
- E. The owner shall maintain and provide proof of property liability insurance in the amount of not less than five hundred thousand dollars (\$500,000.00), or provide proof that property liability coverage in an equal or higher amount is provided by any and all hosting platforms through which the owner will rent the short term rental unit. Proof of liability insurance is not required if short term rental reservations are handled exclusively by hosting platforms (websites) that extend liability coverage of not less than five hundred thousand dollars (\$500,000.00) under terms acceptable to the Manager.
  
- F. Short term rental units must remain compliant with all Planning, Zoning, Building and other City Codes.
  
- G. The owner shall not be classified as a repeat offender or a chronic repeat offender pursuant to subsection [7.5.1008D](#) of this article or pursuant to subsection [6.5.106D](#) of this Code.
  
- H. The owner shall not have had a short term rental unit permit revoked within the preceding twenty four (24) months. (Ord. 18-112)

**7.5.1705: CONDITIONS OF APPROVAL:**   

In the permitting of such use, or in the renewal of a permit, the Manager, Planning Commission or City Council shall have authority to require such reasonable conditions as necessary to protect the public health, safety and general welfare and to ensure that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected. (Ord. 18-112)

**7.5.1706: RULES AND REGULATIONS:**   

It shall be a violation of this part for the owner or short term rental tenants to fail to comply with the following rules and regulations:

- A. All short term tenants shall abide by all applicable noise, housing and public health ordinances of the City and with all other City fire and safety ordinances.

- B. Parking in private driveways shall be utilized first with overflow parking on the street where permitted. Parking on-site in non-driveway areas (i.e., front yard areas, parkways and rear-yards) shall be prohibited.
- C. No meals shall be prepared for or served to the short term tenants by the owner or the owner's agents.
- D. Use of the short term rental unit for any commercial or large social events or gatherings, such as weddings, is prohibited.
- E. The permit with all local contact information and emergency safety information shall be prominently displayed within the short term rental unit.
- F. The City issued permit number shall be used in all rental marketing materials.
- G. During the term that a short term rental unit is occupied by a short term tenant, the owner and/or the local contact person designated by the owner shall be available twenty four (24) hours per day, seven (7) days per week, for the purpose of responding within one hour to complaints regarding the condition or operation of the short term rental unit or the conduct of short term tenants. If the local contact person designated by the owner changes, then the owner shall update the permit on file within three (3) days. (Ord. 18-112)

**7.5.1707: PERMIT SUSPENSION OR REVOCATION:**  

- A. City Council hereby finds that the suspension or revocation of a short term rental unit permit may be necessary when an owner fails to operate the short term rental unit in accord with the provisions of this part. The Manager is authorized to initiate permit suspension or revocation proceedings against an owner when these circumstances arise, by issuing a notice to show cause to the owner.
- B. Planning Commission shall hold a public hearing on the allegations contained in the notice to show cause. Notice to show cause shall be served on the owner not less than ten (10) days prior to the scheduled hearing date. Service may be accomplished by hand delivery to the owner or to the local contact person, or to any principal, any managing agent or the agent for process of the owner, or by first class mail, postage prepaid, to the last address furnished to the Manager by the owner. The Manager may also affix a copy of the notice to the principal entrance of the short term rental unit, in addition to hand delivery or mailing. The notice to show cause shall give the owner notice of the alleged grounds for suspension or revocation and of the date, time and place of the hearing on the alleged violations.
- C. The Planning Commission may suspend or revoke a permit if it finds, by a preponderance of the evidence, that:
  - 1. The operation of the short term rental unit no longer conforms with the review criteria of this part; or



2. The owner has violated a condition of approval; or
  3. The owner has violated the rules and regulations provided for in this part.
- D. Permit suspension or revocation by the Planning Commission may be appealed pursuant to section [7.5.906](#) of this article.
- E. A suspension or revocation shall be effective immediately upon the decision of the Planning Commission or, if appealed, of the City Council. A perfected appeal shall operate as a stay of the Planning Commission decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare.
- F. A suspended permit shall be suspended for a term not to exceed thirty (30) days, and for so long thereafter until reinstated by the Manager upon proof that the cause of the suspension has been remedied.
- G. Suspension or revocation on non-renewal of a permit may be in addition to any remedy provided for in this chapter, including but not limited to, the remedies provided in section [7.5.1005](#) of this article. (Ord. 18-112)

## **Article 6**

### **PLANNING COMMISSION AND ANNEXATIONS**

#### **PART 1 PLANNING COMMISSION**

**[7.6.101: COMMISSION CREATED; MEMBERSHIP:](#)**

**[7.6.102: MEETINGS; ORGANIZATION:](#)**

**[7.6.103: FUNCTION:](#)**

**[7.6.104: ADVICE, CONSULTATION AND HELP:](#)**

**[7.6.105: RULES AND REGULATIONS:](#)**

**7.6.101: COMMISSION CREATED; MEMBERSHIP:**  

There is hereby created a Planning Commission for the City, to be composed of nine (9) regular members to be appointed by the City Council. Two (2) of said regular members may reside outside of, but within three (3) miles of the corporate limits of the City. Appointments to the Commission shall be made in such manner as to achieve staggered three (3) year terms. Vacancies shall be filled by

appointment for the unexpired term only. Members of the Commission shall serve without compensation for their service. (Ord. 96-44; Ord. 01-42)

**7.6.102: MEETINGS; ORGANIZATION:**  

The members of the Planning Commission shall meet at least once a month at such time and place as they may fix by resolution. They shall select one of their number as chair and one as vice chair, each of whom shall serve one year and until their successors have been selected. Special meetings may be called, at any time, by the chair or by the vice chair or by any other member so designated by the chair. A majority of the Commission shall constitute a quorum for the transaction of business. The Commission shall cause a proper record to be kept of its proceedings. (Ord. 96-44; Ord. 01-42)

**7.6.103: FUNCTION:**  

It shall be the function of the Planning Commission to encourage, coordinate and unify planning of the urban metropolitan area centering on the City. For these purposes, it may engage in cooperative and joint planning programs with the planning agencies, officials and representatives of other governmental units and with private agencies and organization. (Ord. 96-44; Ord. 01-42)

**7.6.104: ADVICE, CONSULTATION AND HELP:**  

The Commission may call upon any officer or employee of the City for any services, advice or consultation that it may desire. The Commission may with approval of the City Council employ such clerical or specialized help as may be necessary to effect its purposes; provided, however, that appropriation for the expenses thereof have first been made by the City Council. (Ord. 96-44; Ord. 01-42)

**7.6.105: RULES AND REGULATIONS:**  

The Planning Commission may adopt rules of procedure necessary for the conduct of public hearings in accord with section [1.2.903](#) of this Code. The official copy of the rules and regulations shall be available for inspection at the department. (Ord. 09-76)

## **PART 2 ANNEXATIONS**

**[7.6.201: PURPOSE:](#)**

**[7.6.202: COMPLY WITH STATE LAWS:](#)**

**[7.6.203: CONDITIONS FOR ANNEXATION:](#)**

**[7.6.204: RIGHTS OF CITY:](#)**

**[7.6.205: ANNEXATION AGREEMENTS FOR CITY SERVICES:](#)**

**[7.6.206: PROCEDURE FOR HANDLING REQUESTS:](#)**

**[7.6.207: WATER SERVICE PREVIOUSLY GRANTED OUTSIDE CITY:](#)**

**[7.6.208: SERVICE SUBSEQUENT TO ANNEXATION:](#)**

**[7.6.209: SERVICE PENDING ANNEXATION:](#)**

**[7.6.210: SERVICE WITHOUT ANNEXATION:](#)**

### **7.6.201: PURPOSE:**

A. Extension Policies: City Charter section 6-70 requires that extension policies for the services provided by the Utilities be established by the City Council.

B. Water, Wastewater Service Outside City Limits: City Council believes that definite statements need to be made in order to establish a policy pertaining to the provision and extension of water or wastewater, or both, to consumers outside the City limits who own or occupy land not presently eligible for annexation.

C. Policy Statements:

1. The citizens of the City are the owners of water provided to themselves and to consumers outside the City limits. The monies collected from development charges and the revenues generated by sale of water and processing of wastewater are necessary to pay for the acquisition and development of the water and the construction, operation and maintenance of the water and wastewater facilities.
2. The City must consider the future water and wastewater needs of areas outside the corporate limits if the Pikes Peak urban area is to continue to grow to accommodate anticipated population. However, in considering the future water and wastewater needs of areas outside the City, consideration must be given to the capacity to serve within the corporate limits of the City.
3. The extension or provision of water or wastewater, or both, is a method of fostering compatible land use and development inside and outside the City limits, and should be handled in a manner which will ensure sound land use relationships and promote orderly development.
4. Persons inside the City limits who receive water or wastewater services must comply with City ordinances including, but not limited to, Construction, Fire Protection, Subdivision, Zoning and Health Codes. Such persons must pay ad valorem taxes upon their real property. It seems only reasonable then, that persons outside the City limits who desire water or wastewater services should be required to do no less than those who receive such services inside the City, as well as pay additional fees for such services.
5. There is a need to sell water and process wastewater for revenues to meet the costs of owning and operating the City's water and wastewater system, and the need to ensure that land use and development outside of the corporate limits of the City is compatible with land use within the City and will not have an adverse impact on the City and its facilities, public and private.
6. There is no obligation imposed by general law upon the City to permit any of the City's water to be used outside its boundaries. Neither is there an obligation under general law to reserve water for undeveloped land presently within the City's boundaries. (Ord. 96-44; Ord. 01-42)

### **7.6.202: COMPLY WITH STATE LAWS:**

Annexation, consolidation or disconnection of territory to or from the City shall be in accord with article II of the Colorado Constitution and the Municipal Annexation Act of 1965<sup>1</sup> as it exists now or may later be amended. (Ord. 96-44; Ord. 01-42)

### **7.6.203: CONDITIONS FOR ANNEXATION:**

To assist the City Council in its decision, each proposal for annexation shall be studied to determine whether:

- A. The area proposed to be annexed is a logical extension of the City's boundary;
- B. The development of the area proposed to be annexed will be beneficial to the City. Financial considerations, although important, are not the only criteria and shall not be the sole measure of benefit to the City;
- C. There is a projected available water surplus at the time of request;
- D. The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City;
- E. The annexation can be effected at the time the utilities are extended or at some time in the future;
- F. The City shall require as a condition of annexation the transfer of title to all groundwater underlying the land proposed to be annexed. Should such groundwater be separated from the land or otherwise be unavailable for transfer to the City, the City, at its discretion, may either refuse annexation or require payment commensurate with the value of such groundwater as a condition of annexation. The value of such groundwater shall be determined by the Utilities based on market conditions as presently exist;
- G. All rights of way or easements required by the Utilities necessary to serve the proposed annexation, to serve beyond the annexation, and for system integrity, shall be granted to the Utilities. Utilities, at the time of utility system development, shall determine such rights of way and easements;
- H. If the proposed annexation to the City overlaps an existing service area of another utility, the applicant shall petition the PUC (Public Utilities Commission) or other governing authority to revise the service area such that the new service area will be contiguous to the new corporate boundary of the City.

After the foregoing have been studied in such depth as the City Council shall require, the City Council in its discretion may annex or not annex the proposed area. In the event the City Council chooses to annex, it may require a contemporary annexation agreement specifying the installation and the time of installation of certain public and utility improvements, both on site and off site, that are required or not required under this Subdivision Code. City Council may specify such other requirements, as it deems necessary. In the event the City Council chooses not to annex, utilities

shall not be extended unless Council is assured that an agreement for annexation can be enforced, and that the remaining provisions of this section for annexation subsequent to extension of utilities have been met. (Ord. 96-44; Ord. 01-42)

#### **7.6.204: RIGHTS OF CITY:**

- A. This part shall not be construed to create any rights or cause of action in any person or land, whether or not the same is eligible for annexation, to demand or receive water or wastewater or other municipal service. The City has never previously and does not now assert exclusive control over the right to serve areas outside the corporate limits of the City with water and wastewater. Areas and activities outside the corporate limits of the City are free to obtain water and wastewater services from any other sources.
  
- B. The right of the City Council to restrict and regulate the use of City water within or outside the City limits shall not be abridged by anything contained in this section. The City Council hereby declares the policy of the City to be that water belonging to the City is in no way allocated to a particular parcel of land until such land is developed and water applied to actual use upon such land. Nothing in this section shall be construed to confer upon undeveloped land within the City limits, as such City limits exist at the time of adoption of this section or as such City limits may be hereinafter altered by annexation or disconnection, any right to the preservation of existing water rights or quantities of water for the sole and exclusive use of such land.
  
- C. In the interest of the citizens of the City, City Council will not extend water or wastewater service into any area which is not presently included within the Utilities electric service area. An exception to this policy may be made if the area requesting service can be annexed to the City at the time of utility extension and included in the electric service area upon such annexation or for special contract service for water or wastewater services outside the City. (Ord. 96-44; Ord. 01-42; Ord. 10-75)

#### **7.6.205: ANNEXATION AGREEMENTS FOR CITY SERVICES:**

- A. Except for special contract service for water or wastewater services outside the City, as a condition precedent to the supplying of City water or wastewater services, or both, to land outside the limits of the City, under this part the City shall require an agreement executed by the owners in fee of the real property so supplied, which agreement shall provide, among other conditions as the City Council may impose, that the owners shall petition for and consent to the annexation of the area to be supplied with such City services to the City at such future date as the area supplied or any portion thereof, becomes both eligible for annexation pursuant to section 30 of article II of the Colorado Constitution and the Municipal Annexation Act of 1965, as it now exists or may hereafter be amended or as it may be modified by section 30 of article II of the Colorado Constitution, and is found by the City Council to be proper for annexation to the City under the provisions of part 1 of this article.
  
- B. It is recognized that a court determination may be required in order to satisfy the provisions of this part.

C. Such agreement shall be reported to the City Council at the next regular Council meeting following its execution. Such agreement shall then be recorded and shall run with the land and be binding on the heirs, assigns and successors in interest of the signers. (Ord. 96-44; Ord. 01-42; Ord. 10-75)

**7.6.206: PROCEDURE FOR HANDLING REQUESTS:**  

A. An application for water or wastewater service for premises outside the corporate limits of the City may be granted by the City Council upon finding that all conditions set forth in this part have been met by the applicant. In its discretion, the City Council may require that studies addressing the considerations expressed in this part, be prepared as a condition precedent to the granting of water or wastewater services or both.

B. In no event is City Council legally obligated to serve water or wastewater outside the City limits.

C. In the event that the City Council authorizes the extension of water or wastewater or both services outside the City boundaries, such decision shall be considered a matter of legislative discretion and not subject to judicial review. Neither shall such decision constitute a precedent controlling other pending or future applications for extraterritorial service. (Ord. 96-44; Ord. 01-42)

**7.6.207: WATER SERVICE PREVIOUSLY GRANTED OUTSIDE CITY:**  

Any request for a change of use of previously granted municipal services shall be considered and administered as a new application for such municipal service and shall be subject to all of the provisions and requirements as set forth in this part. (Ord. 96-44; Ord. 01-42)

**7.6.208: SERVICE SUBSEQUENT TO ANNEXATION:**  

Except as otherwise provided in this section, land which at the time of request for service is eligible for annexation to the City under section 30 of article II of the Colorado Constitution and the Municipal Annexation Act of 1965 as it now exists or may hereafter be amended and which meets the provisions of this part, as determined by City Council, shall be annexed to the City before receiving City water or wastewater service or both except as provided in this part. (Ord. 96-44; Ord. 01-42)

**7.6.209: SERVICE PENDING ANNEXATION:**  

A. For good cause shown, the City Council may approve the delivery of water or wastewater service, or both, pending completion of annexation. As used in this subsection, good cause is any reason which in the opinion of City Council:

1. Would cause unnecessary delay to the annexor in commencing work on the proposed development; or
2. Would impose an unnecessary economic hardship upon the annexor, without any compensating advantage or benefit to the City or its citizens. In any event, the City Council hereby declares that its discretion in determining the existence or nonexistence of good cause is a legislative act and is not subject to judicial review.

B. A petition for annexation, subject to such conditions as City Council in its discretion may impose, must be first filed before a permit or permits for such water or wastewater service shall be issued or any work commence to extend such water or wastewater service beyond the City limits existing at that time. Once filed such petition cannot be withdrawn except with express permission of the City Council and shall be pursued by the annexor and affected City departments to a speedy conclusion. Authorization for water or wastewater extension beyond the City limits may be withdrawn by the City Council without notice to the annexor at any time prior to any substantial change of position (expenditure of time or money) by them in reliance on such authorization.

C. All required fees shall be payable in advance of the issuance of permit(s) for the requested service(s) and no fee or portion thereof shall be refunded.

In no event shall this section be used if annexation subsequent to the extension of utilities cannot be assured under the provisions of section 30 of article II of the Colorado Constitution. (Ord. 96-44; Ord. 01-42)

#### **7.6.210: SERVICE WITHOUT ANNEXATION:**

In its legislative discretion, the City Council may authorize special contract service for water or wastewater services outside the City, or service without annexation. Special contract service shall only be considered when the area to be served is legally ineligible for annexation or when City Council determines that annexation is not in the best interest of the citizens of the City, and shall comply with the provisions of section [12.4.304](#) of this Code.

Service without annexation is available for the delivery of water or wastewater services or both to land otherwise eligible for annexation under the criteria of the Municipal Annexation Act of 1965 but which the Council decides not to annex for failure to meet the provisions of this part. Further, in exercising its discretion for service without annexation, the City Council shall consider, among such other values and matters as may be presented to it, the following:

A. Estimated immediate and long range costs to the City under development plans proposed by the annexor, which cost estimates shall include, but need not be limited to:

1. The Cost Of Extending Existing City Services: Examples of capital improvements are bridges, arterial streets, major drainage improvements, parks and park improvements and the maintenance and operation of such improvements;
2. Capital Improvements: The nature and the cost of City financed capital improvements made necessary<sup>2</sup> by the proposed annexation when developed<sup>3</sup>;
3. Time Schedule: The time schedule as proposed by the annexor over which such costs would be extended.

B. Revenues expected to be generated by proposed development within the area proposed to be annexed<sup>4</sup>.

C. Other benefits to the City for which there is no readily acceptable method of computation except subjective judgment<sup>5</sup>.

D. In addition, the City Council shall consider whether:

1. There is a projected available water surplus at the time of request.
2. The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City.
3. The owner of the land to be served has executed an annexation agreement in the form required by the City. Such annexation agreement shall be attached to the application.
4. The proposed use of the land to be served is compatible with the use of adjacent land areas and to the extent acceptable to and approved by the City Council is in conformance with the plan of the Pikes Peak Area Council of Governments Urban Area Policy Committee. Such proposed land use shall be submitted to the government entity having land use planning jurisdiction thereover for comment at least thirty (30) days before final Council action on the request for services.
5. Water and wastewater development and other applicable utility fees will be paid, and the owner of the land to be served has agreed to abide by all conditions and terms of the Colorado Springs Utilities. Water and wastewater extension policies are available at the Office of the Utilities Executive Director.
6. The development of the land to which the water and wastewater services are to be provided is in conformance with those provisions of this Code, as amended, as are applicable to land development within the corporate limits of the City or adequate assurances are made that development of the land will be in compliance with City codes. Assurances of such conformance may be in the form of cash deposit, corporate surety bond, letter of credit or other assurance which the City Attorney shall approve as to form and the City Engineer shall approve as to amount. Compliance with City codes pertaining to land development may require, but shall not be limited to:
  - a. Provision for required school/park sites or fees in lieu thereof to the applicable jurisdictions<sup>6</sup>.
  - b. Dedication, design and construction of required streets, sidewalks, curbs, gutters and utilities, including telephone, to City standards or to the standards of the entity having responsibility for maintenance thereof, whichever standard is more strict<sup>7</sup>.
  - c. Dedication of easements including, but not limited to, utility, including telephone and drainage easements as required by the Subdivision Code<sup>8</sup>.
  - d. Provision for necessary drainage facilities or the payment of drainage fees and arterial roadway bridge fees<sup>9</sup>.
  - e. The City shall require, as a condition of service without annexation, the transfer of title to all groundwater underlying the land proposed to be served with water and wastewater services. Should such groundwater be separated from the land or otherwise be unavailable for transfer to the City, the City, at its discretion, may either refuse such service without annexation or require payment commensurate with the value of such groundwater as a condition of service without annexation. The



value of such groundwater shall be determined by the Utilities, based on market conditions as presently exist.

E. Whether the annexation agreement referred to in subsection D3 of this section can be legally enforced under section 30 of article II of the Colorado Constitution and the Municipal Annexation Act of 1965 as modified by section 30 of article II of the Constitution. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 10-75)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): CRS §31-12-101 et seq. (bill of rights).

[Footnote 2](#): The state of development of land being considered for annexation will have considerable bearing on the question of necessity. For example, if partially or fully developed areas are under consideration there may be no need for additional improvements in the absence of significant hazard to the public health, safety and welfare.

[Footnote 3](#): While not directly City related expense, consideration should also be given to costs incurred by other governmental entities, e.g., school districts, County Sheriff's Office, etc., resulting from proposed development within the area under construction. While it is arguable that such costs will occur regardless of annexation, such development is not likely to occur without a ready availability of water and wastewater services.

[Footnote 4](#): Examples of such revenues are ad valorem taxes from the land, and improvements situated and to be situated there, sales and use taxes from commercial development therein, increased revenue sharing or other grant funds resulting from increased population, increased income taxes and the like.

[Footnote 5](#): Examples of such intangible benefits are increased employment opportunity, improved wastewater management, improved drainage control, improved public transportation, diversification of economic base (i.e., industry of a differing type as opposed to more industry of the same or allied type).

[Footnote 6](#): See article 7, part 12 of this chapter.

[Footnote 7](#): See City Engineer "Standard Specification" available at the Office of the City Engineer.

[Footnote 8](#): See [article 7 of this chapter](#).

[Footnote 9](#): See article 7, parts 9 and 10 of this chapter.

# Article 7

## SUBDIVISION REGULATIONS

### PART 1 GENERAL PROVISIONS

[7.7.101: TITLE:](#)

[7.7.102: PURPOSE:](#)

[7.7.103: GENERAL RESPONSIBILITIES:](#)

[7.7.104: TERRITORIAL LIMITS OF REGULATIONS:](#)

[7.7.105: INTERPRETATION OF CONFLICTING REGULATIONS:](#)

[7.7.106: SEVERABILITY CLAUSE:](#)

[7.7.107: COMPLIANCE REQUIRED:](#)

[7.7.108: DEFINITIONS:](#)

[7.7.109: ANTIQUATED SUBDIVISION PLATS:](#)

[7.7.110: AMENDMENTS TO THE TEXT OF THE SUBDIVISION CODE:](#)

**7.7.101: TITLE:**  

This article shall be known and shall be cited as the *SUBDIVISION CODE* of the City of Colorado Springs. (Ord. 96-44; Ord. 01-42)

**7.7.102: PURPOSE:**  

It is the purpose and intent of this article:

A. To promote the health, safety, convenience and general welfare of the citizens of the City.

B. To set forth appropriate standards for subdivision design which will:

1. Encourage the development of sound, economical, stable neighborhoods and create a healthy living environment for the residents of the City, in conformance with the goals and policies of the Comprehensive Plan.
2. Provide for lots of adequate size, configuration and appropriate design for the purpose for which they are to be used and to accommodate the physical features of the site.
3. Promote design flexibility.
4. Provide for streets of adequate capacity and with which appropriate improvements will handle anticipated traffic flow.

5. Preserve the significant natural features and environmental quality of the City.

C. To set forth appropriate standards for utilities and services which will:

1. Provide an efficient, adequate and economical supply of utilities and services to land proposed for development, in order to assure that governmental costs are minimized to the greatest extent possible.
2. Ensure at the time of subdivision that adequate storm drainage, sewage disposal and other utilities, services and improvements needed as a consequence of subdivision of land are provided.
3. Provide for the undergrounding of all public utilities lines up to thirty thousand (30,000) volts except as otherwise provided in section [7.7.805](#) of this article.

D. To assure the provision of adequate and safe circulation which will:

1. Minimize traffic hazards through means of appropriate street design, and provide for safe and convenient vehicular and pedestrian traffic circulation.
2. Provide for adequate vehicular access to abutting properties and the subdivider's remaining holdings.
3. Assure that street rights of way are provided for in accord with the major thoroughfare plan and the City Engineer design manual<sup>1</sup>.
4. Provide for safe and convenient pedestrian access throughout the community.

E. To assure adequate public facilities are provided which will:

1. Enhance the coordination of subdivision development with the provision of public facilities such as parks, recreation areas, schools and other types of community facilities.
2. Ensure that public facilities are provided in accord with the City's Comprehensive Plan.
3. Provide for adequate law enforcement and fire protection facilities.

F. To ensure the appropriate development of the community through the implementation of the goals and policies of the Comprehensive Plan. (Ord. 96-44; Ord. 01-42)

### **7.7.103: GENERAL RESPONSIBILITIES:**

A. Subdivider: The subdivider shall be responsible for the preparation, submission, design and installation of improvements for all plats of subdivision, in accord with the regulations set forth in the development application, as amended from time to time.

- B. Community Development Manager: The person responsible for the design analysis and expeditious processing of subdivision plats and reports. The Manager may, together with the City Engineer, approve all subdivision plats which are subject to administrative review. The Manager may delegate any authority to act conferred by this chapter.
  
- C. City Engineer: The City Engineer shall be responsible for reporting to the Planning Commission and the City Council as to whether the proposed improvements are consistent with the regulations contained in the development application. The City Engineer shall also be responsible for the supervision of the installation of such improvements, and shall recommend their final approval. The City Engineer may, together with the Manager of the Department, finally approve all subdivisions, which are subject to administrative review.
  
- D. Planning Commission: The Planning Commission shall review all subdivision procedural and design waiver applications per section [7.7.1301](#) of this article, appeals of administrative decisions regarding subdivision plats and minor administrative decisions, and referrals made by the Manager.
  
- E. City Council: The City Council shall hear all appeals of Planning Commission decisions regarding subdivision appeals and the vacation of any public right of way. (Ord. 96-44; Ord. 01-42; Ord. 03-16; Ord. 09-80)

**7.7.104: TERRITORIAL LIMITS OF REGULATIONS:**  

- A. Area Inside City Limits: This Code shall apply to all land located within the City limits.
  
- B. Area Outside City Limits: All layouts of proposed subdivisions outside the City but within the territorial limits established under the statutes of the State of Colorado<sup>2</sup> shall be submitted to the Department and City Engineering for their recommendations relating to subdivision design, traffic, circulation and the City's Comprehensive Plan. (Ord. 96-44; Ord. 01-42; Ord. 09-80)

**7.7.105: INTERPRETATION OF CONFLICTING REGULATIONS:**  

Where any provision of this Code imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other ordinance or the statutes of the State of Colorado, then the provisions of this Code shall govern. (Ord. 96-44; Ord. 01-42)

**7.7.106: SEVERABILITY CLAUSE:**  

If any part or provision of this Code or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations on the application thereof to other persons or circumstances. (Ord. 96-44; Ord. 01-42)

**7.7.107: COMPLIANCE REQUIRED:**  

No person shall subdivide any tract of land which is located within the City except in conformity with the provisions of this Code, and jurisdiction under this section shall also extend to and cover any major street plan adopted under the provisions of this Code to the extent of the territorial limits established under the State statutes. (Ord. 96-44; Ord. 01-42)

### **7.7.108: DEFINITIONS:**

The following terms, as used in this Code, shall have the meanings designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

**ADJACENT PROPERTY OWNER:** The owner of property which abuts any property line of the property under review, or, if separated by public right of way, railroad right of way or other easement, would abut the subject property if lot lines were extended across the intervening land area until they intersected another property line.

**ALLEY:** Public right of way, which provides only secondary access to property. For the purpose of this section, an alley is not considered to be a street.

**ASSURANCE:** A financial commitment, consisting of letters of credit, subdivision bond, cash, or other instruments approved as to form by the City Attorney, to cover the cost of public improvements, including, but not limited to, drainage, street, erosion control and private drainage improvements, necessitated by approval of a subdivision.

**BICYCLE PLAN:** The City of Colorado Springs bicycle plan, adopted by the City Council and all subsequent amendments thereto, as contained in the Comprehensive Plan.

**BLOCK:** A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad rights of way, shorelines of waterways, or boundary lines of municipalities.

**COLORADO SPRINGS CONSTRUCTION INDEX:** The annual cost escalation instrument for improvement construction, regional infrastructure fees and other shared obligations identified in annexation agreements. The index has two (2) components: construction costs and land costs. The construction portion is adjusted using the annual increase for the unit drainage fees in the City's drainage basins. The land portion is adjusted using the annual school/park fee as a base. If no land cost is associated with the required obligation, then the annual escalation of that fee would be calculated using only the construction portion of the index.

**COMPREHENSIVE PLAN:** The Comprehensive Plan of the City of Colorado Springs and all subsequent amendments thereto, as contained in this chapter.

**CONCEPT PLAN:** A graphic representation drawn to scale of a proposed development of a particular site which meets all requirements of this chapter.

**DEDICATION:** The purpose by which private property is transferred to a public entity for a public use.

**DEVELOPMENT PLAN:** A detailed graphic representation drawn, to scale, of a proposed development of a particular site which meets all requirements of this chapter.

**DRAINAGE REPORT, FINAL:** A document prepared in accord with the drainage criteria manual which analyzes all drainage features of the proposed development in the detail necessary to complete construction plans for all project drainage structures, including grading details, street

grades, and off site facilities as applicable.

**DRAINAGE REPORT, PRELIMINARY:** A document, prepared in accord with the drainage criteria manual, which identifies and proposes specific solutions to drainage problems. Specific improvements including channels, storm sewer grading plan, catch basins, culverts, and other hydraulics shall be located and sized to meet requirements of the initial and major drainage system.

**EASEMENT:** Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.

**FINAL PLAT:** A map prepared in accord with the provisions of this part which is presented to the City for approval and which, if approved, will be recorded by the City with the El Paso County Clerk and Recorder, and a copy thereof shall be filed with the City Engineer.

**LOT:** A parcel of land which:

- A. Is shown as a lot on a recorded final plat; or
- B. Meets the requirements for issuance of a building permit to unplatted land; or
- C. Meets the requirements for issuance of a building permit to previously platted lands; or
- D. Has a property boundary adjustment approved and recorded by the Community Development Department; or
- E. Is considered a lot of record as the deed for the parcel was recorded in the public records of El Paso County, Colorado, on or before January 18, 1904.

**LOT, CORNER:** A lot at the junction of and fronting on two (2) or more intersecting streets.

**LOT, DOUBLE FRONTAGE OR THROUGH:** A lot having frontage on two (2) parallel or approximately parallel streets.

**LOT, FLAG:** A lot for which the front lot line abuts one or more rear or side lot lines of adjacent lots. Primary access is by a private or privately shared drive leading to a public right of way.

**LOT, INTERIOR:** A lot other than a corner lot.

**LOT OF RECORD:** A parcel of land in the City, the deed of which was recorded in the public records of El Paso County, Colorado, on or before February 13, 1951, or a parcel of land which was subsequently annexed to the City which was: a) a platted lot meeting the applicable subdivision requirements of El Paso County, b) a legal nonconforming lot in El Paso County, c) a parcel of land that was legally exempted by El Paso County from platting requirements, or d) a parcel of land in El Paso County created before September 1, 1972.

**MASTER FACILITIES PLAN:** The proposed system for the provision of public facilities to a development including, but not limited to, street cross sections, placement of utilities and drainage facilities, and easements.

**PLANNED ZONE:** A zoning district as specified in the Zoning Code, for which a concept plan or development plan shall be finally approved prior to the final approval of a final plat.

**PRELIMINARY PLAT:** A map or a drawing showing the design of a proposed subdivision together with such information, supporting data and other requirements as are necessary to comply with the provisions of this article.

**PRESERVATION AREA:** That portion or area of a lot(s) which is set aside in the form of a restriction for the purpose of retaining land or water in their natural state, scenic or open condition. This restriction prohibits the following unless permitted by the approved development plan:

- A. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground;
- B. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials;
- C. Removal or destruction of trees, shrubs or other vegetation;
- D. Excavation, dredging or removal of loam, gravel, soil, rock, or other mineral substance in such manner to affect the surface;
- E. Activities detrimental to drainage, flood control, erosion control or soil conservation; or
- F. Other acts or uses detrimental to such retention of land or water areas.

**PRIVATE STREET:** A street which is not constructed within dedicated public right of way and which provides primary access to two (2) or more lots. A private street may be identified as a tract or access easement. If shown as an easement on a lot, the private street area may not be used to satisfy any minimum lot area requirements of the Zoning Code of this chapter. Flag lots serving not more than four (4) residential lots shall be considered a shared driveway and not a private street.

**PUBLIC IMPROVEMENTS:** Those physical improvements to property which, after their construction or acceptance by the City, shall be maintained by the City or other public body. Public improvements include, but are not limited to, streets, facilities for the transmission and/or distribution of water, gas, electricity, and wastewater, storm drainage improvements, and street lighting.

**PUBLIC NOTICE:** Provision of information regarding the proposed development action for a specific property shall consist of publication, posting, mailed public notification and neighborhood meetings which are referred to in article 5, part 9 of this chapter.

**PUBLIC STREET:** A street which is located and constructed within a dedicated public right of way.

**REPLAT:** A change in a recorded plat, which involves any one or a combination of the following:

- A. Rearrangement of lot lines;
- B. The addition of unplatted or vacant land;
- C. Rearrangement or deletion of public streets and alleys subsequent to or concurrent with vacation of approved public streets and alleys by City Council;
- D. Further subdivision of platted lots, provided no portion of a platted lot is deleted from the proposed legal description.

**SUBDIVIDER:** The owner of property, or his agent, who subdivides property, or who proposes the subdivision of property as set forth in this article.

**SUBDIVISION:** The division of a parcel of land into two (2) or more lots or parcels less than thirty five (35) acres in area for the purpose of transfer of ownership or building development, or the building development or platting of a single unplatted parcel of land, or if a new street is involved, excepting at the instance of the City, any division of a parcel of land; provided that a division of land which may be ordered or approved by a court or effected by testamentary or intestate provisions, or a division of land for agricultural purposes and not involving a new street, or the rearrangement of property boundaries shall not be deemed a subdivision.

**TRACT:** A parcel of land which is created for purposes of common ownership and use by two (2) or more property owners, an association or government entity.

**UNPLANNED ZONE:** A zoning district as specified in the Zoning Code of this chapter, as amended, for which no concept plan or development plan is required for approval prior to submittal of any subdivision for approval by the City.

**UTILITY SERVICE PLAN:** A plan showing the routing of utility service lines and required easements for individual structures or dwelling units or lots.

**VACATION:** The process by which recorded public right of way is transferred from the City to adjacent property owner(s) for private ownership and use, or the reversion to metes and bounds description of property for which a recorded final plat exists. (Ord. 96-44; Ord. 01-42; Ord. 07-85; Ord. 09-69; Ord. 09-78; Ord. 09-80; Ord. 12-75; Ord. 17-2)

### **7.7.109: ANTIQUATED SUBDIVISION PLATS:**

Subdivisions or portions of subdivisions, the plats of which have been recorded for more than twenty (20) years, which have not been developed, have had no public or private improvements installed or constructed, or have had no building permits issued or any land use commenced on the property for any reason of terrain or other conditions, may be determined to be "antiquated". A subdivider or the City may propose that the improvements required at the time of the antiquated plat approval are now unrealistic, unusual or unreasonable, costly, and the subdivision plat may be deemed to be "antiquated". Antiquated subdivision plats or any part of the plat shall be subject to all of the provisions of this article, upon determination by the Manager and City Engineer. The determination may be appealed to the City Planning Commission and the City Council as provided herein. (Ord. 96-44; Ord. 01-42; Ord. 12-75)



### **7.7.110: AMENDMENTS TO THE TEXT OF THE SUBDIVISION CODE:**

Amendments to this subdivision code may be initiated by the Community Development Department, Engineering Department, City Council, Planning Commission or the Mayor. An application must be filed with the Community Development Department. Amendments may be approved by City Council upon receiving a recommendation of the Planning Commission. (Ord. 12-75)

## **PART 2 PRELIMINARY PLATTING PROCEDURES**

### **7.7.201: PRELIMINARY PLAT REQUIRED:**

### **7.7.202: WAIVER OF PRELIMINARY PLAT FOR REPLATS:**

### **7.7.203: PRELIMINARY PLAT PROCEDURES:**

### **7.7.204: PRELIMINARY PLAT REQUIREMENTS:**

### **7.7.205: TIME LIMIT TO FILE FINAL PLAT AFTER PRELIMINARY PLAT APPROVAL:**

### **7.7.201: PRELIMINARY PLAT REQUIRED:**

A preliminary plat is required for all proposed subdivisions or replats of property in unplanned zones except as noted in section [7.7.202](#) of this part. A preliminary plat is not required in a planned zone as the approved or submitted concept plan or development plan may be approved in lieu of a preliminary plat if the plan includes all of the information required for both the concept or development plan and the preliminary plat. (Ord. 96-44; Ord. 01-42; Ord. 09-79; Ord. 12-75)

### **7.7.202: WAIVER OF PRELIMINARY PLAT FOR REPLATS:**

A preliminary plat for a proposed subdivision to replat existing platted property shall not be required under the following circumstances:

- A. There are no structures on the property; and
- B. There are no significant physical features or topography (subject to verification during review of the replat); and
- C. The property is not located in an area subject to the provisions of the floodplain ordinance; and
- D. No dedicated City right of way proposed for vacation is included. (Ord. 96-44; Ord. 01-42)

### **7.7.203: PRELIMINARY PLAT PROCEDURES:**

A preliminary subdivision plat shall be reviewed and approved administratively by the Department

and City Engineering in accord with the following procedures. A final plat may be reviewed and approved concurrently with a preliminary plat. Review procedure:

- A. Distribution for review of the preliminary plat shall not occur until a complete submittal is received by the Department. The Department shall refer the complete preliminary plat to other City agencies, as required, for their review and comment.
- B. The Department shall review and notify the subdivider in writing of any required preliminary plat modifications.
- C. Upon receipt of a revised preliminary plat, the Department may refer the plat to City agencies for follow up review and comment, notify the subdivider of additional modifications or render a decision to approve, deny or refer the preliminary plat to the Planning Commission.
- D. The review and decision of the Department regarding a preliminary subdivision plat shall be based upon the subdivision's conformance with the Subdivision Code and any other applicable City policies, standards and ordinances.
- E. Any person aggrieved by any action of the Department regarding a preliminary subdivision plat may appeal such action to the Planning Commission under the procedures outlined in this chapter. Decisions rendered by the Department shall be final, unless the decision is appealed or referred to the Planning Commission or the decision of the Planning Commission is appealed to City Council. (Ord. 96-44; Ord. 01-42; Ord. 09-79)

#### **7.7.204: PRELIMINARY PLAT REQUIREMENTS:**

A. Submission:

1. Application Form: The subdivider shall submit with the preliminary plat a completed application and a plat submittal checklist form as provided by the Department.
2. Submission Fee: The subdivider shall pay the application fee at the time of submitting the preliminary plat.
3. Required Number Of Plats: The subdivider shall submit to the Department the required number of plats.
4. Public Notice: The public notice requirements as defined by article 5, part 9 of this chapter shall apply.
5. Material Required To Accompany Preliminary Plat:
  - a. Where the preliminary plat layout covers only a part of the subdivider's entire holding, a sketch of the prospective street system of the unsubmitted part shall be furnished insofar as it affects the plat submitted for consideration of the overall street system.

- b. Proof of ownership of land proposed to be platted or power of attorney from the owner of the land proposed to be platted. Proof of ownership may consist of a deed, title insurance policy, Tax Assessor's statement or sworn statement of the owner.

B. Information Required On Preliminary Plat:

1. Name of subdivision.
2. An accurate and clear legal description of the subdivision with the acreage of the subdivision.
3. Name and address of the legal property owner and/or subdivider.
4. Name and address of the designer, surveyor and/or engineer.
5. Date of preparation, scale and north point.
6. A vicinity location map necessary to locate the tract.
7. Existing zoning and/or proposed zoning boundary lines, including zoning of contiguous properties.
8. Approximate location of land intended to be conveyed or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision.
9. Approximate layout, dimensions and number of lots.
10. Show all adjacent public rights of way and improvements, including location of existing curb, pavement, gutter and sidewalk.
11. Names of the public or private streets or other public or private ways, easements, railroad and utility right of way, section and incorporation lines within the tract. Any private street shall include the designation "(Private)" immediately following street name; any other private right of way that is not named shall include the designation "(Private)" in a manner that clearly conveys such a status.
12. The approximate radii of all street curves.
13. Approximate location of all areas subject to inundation or stormwater overflow with a 100- or 500-year storm and the location, width and direction of flow of all watercourses.
14. Existing location of bridges, culverts and other provisions for collection and discharge of surface drainage.
15. Accurate existing contours shall be shown at intervals of two feet (2') or less; contours at intervals of five feet (5') will be acceptable for very rough topography. The contours shall be extended onto adjacent property a sufficient distance to establish proper topographical relationships. Proposed grading including approximate street grades.
16. Location and dimension of all existing buildings to remain.
17. Means of providing vehicular access to adjoining properties.

- 18. Approximate area in square feet of each lot proposed to be platted.
- 19. All existing and proposed easements. Indicate the book and page and/or reception number for all existing easements.
- 20. Indication of existing easements requested to be vacated. (Ord. 96-44; Ord. 01-42; Ord. 08-44; Ord. 09-79)

**7.7.205: TIME LIMIT TO FILE FINAL PLAT AFTER PRELIMINARY PLAT**

**APPROVAL:**  

The subdivider shall submit for approval by the Community Development Department a final plat or a series of final plats for all property contained within an approved preliminary plat within forty eight (48) months of the date of final approval of the preliminary plat. Failure to comply with this provision shall void the preliminary plat for that property for which a final plat has not been submitted. The subdivider shall be required to submit a new preliminary plat in accord with the requirements of this Code, as amended. (Ord. 96-44; Ord. 01-42; Ord. 09-80)

**PART 3 FINAL PLATTING PROCEDURES**  

- [7.7.301: FINAL PLAT REQUIRED:](#)
- [7.7.302: FINAL PLAT PROCEDURES:](#)
- [7.7.303: FINAL PLAT REQUIREMENTS:](#)
- [7.7.304: MODIFICATIONS:](#)
- [7.7.305: REPLAT REQUIREMENTS:](#)
- [7.7.306: RECORDING PROCEDURES:](#)

**7.7.301: FINAL PLAT REQUIRED:**  

A final plat is required for all proposed subdivisions or replats of property. The final plat, if located in a planned zone, may be reviewed concurrently with the concept plan or the development plan if the concept plan or development plan has not already been finally approved. (Ord. 96-44; Ord. 01-42; Ord. 09-79)

**7.7.302: FINAL PLAT PROCEDURES:**  

A final subdivision plat shall be reviewed and approved administratively by the Department and City Engineering in accord with the following procedures. A preliminary plat may be reviewed and approved concurrently with a final plat. Review procedure:

- A. Distribution for review of the final plat shall not occur until a complete submittal is received by the Department. The Department shall refer the complete final plat to other City agencies, as required, for their review and comment.

- B. The Department shall review and notify the subdivider in writing of any required final plat modifications.
- C. Upon receipt of a revised final plat, the Department may refer the plat to City agencies for follow up review and comment, notify the subdivider of additional modifications or render a decision to approve, deny or refer the final plat.
- D. The review and decision of the Department regarding a final subdivision plat shall be based upon the subdivision's conformance with the Subdivision Code and any other applicable City policies, standards and ordinances.
- E. Any person aggrieved by any action of the Department regarding a final subdivision plat may appeal such action to the Planning Commission under the procedures outlined in this chapter. Decisions rendered by the Department shall be final, unless the decision is appealed or referred to the Planning Commission or the decision of the Planning Commission is appealed to City Council. (Ord. 96-44; Ord. 01-42; Ord. 09-79)

### **7.7.303: FINAL PLAT REQUIREMENTS:**

#### A. Submission:

1. Application Form: The subdivider shall submit with the final subdivision plat a completed application and a plat submittal checklist form as provided by the Department.
2. Submission Fee: The subdivider shall pay an application fee at the time of submitting the final subdivision plat.
3. Required Number Of Plats: The subdivider shall submit the required number of plats as specified on the subdivision application form.
4. Proof Of Ownership Of Land Proposed To Be Platted: Such proof of ownership may consist of a deed, title insurance policy or Tax Assessor's statement.
5. Public Notice: The public notice requirements as defined by article 5, part 9 of this chapter shall apply.

#### B. Specifications Of A Final Plat:

1. Code Requirements: The proposed subdivision shall meet all requirements of the Subdivision Code and any other applicable City policies, standards and ordinances.
2. Preparation: A professional land surveyor, licensed by the State of Colorado, shall clearly and legibly prepare the final plat.
3. Readability: All line annotation and all other text shall be easily and clearly readable. No text shall overwrite other text or be overwritten by map lines.

4. Sheet Size: The sheet size shall be twenty four inches by thirty six inches (24" x 36") including one-half inch (1/2") border with "landscape" orientation. North may be oriented from plus ninety degrees (+90°) to minus ninety degrees (-90°) of "True North".
5. Scale: The final plat shall be drawn to a fixed scale. One inch equals ten feet (1" = 10'), one inch equals twenty feet (1" = 20'), one inch equals thirty feet (1" = 30'), one inch equals forty feet (1" = 40'), one inch equals fifty feet (1" = 50'), one inch equals sixty feet (1" = 60'), one inch equals one hundred feet (1" = 100') and one inch equals two hundred feet (1" = 200') are the acceptable scales. The City Engineer may, however, disapprove any scale as inappropriate if it results in an overly cluttered or illegible plat drawing. Alternative scales may be considered on a case by case basis and will require approval by the City Engineer. A bar scale reflecting this scale shall be placed on the final plat.
6. Leader Lines: Use leader lines whenever a dimension is not clearly and unmistakably associated with a given line, line segment or arc.
7. Identification System: All lots and blocks in the subdivision shall be numbered, beginning with the numeral "1" and continuing consecutively throughout the tract, with no omissions or duplications. All tracts shall be likewise labeled beginning with the letter "A". Lots and tracts shall be labeled with the area of the lot or tract.
8. Multiple Sheets: Whenever a plat drawing spans multiple sheets, clear and well labeled match lines and a key map shall be included on each sheet. Labels will be of the nature "see sheet of ". Duplicate street names, widths, lot numbers, tract names, easement labeling or any such labeling is required when any feature is shown on multiple sheets.

#### C. Information Required To Be Shown Upon A Final Plat:

1. Subdivision Name, Subtitle: Name of subdivision at the top of the sheet, followed by a subtitle identifying the section, township and range information along with City, County and State.
2. Property Description: An accurate and clear metes and bounds property (legal) description of the overall boundary of the subdivision with the acreage of the subdivision. All courses, calls, monuments, etc., used in the description shall be shown and labeled on the drawing, including the point of beginning and point of commencement. Property descriptions in any other format, as may be provided by a title company, deed, etc., may be shown, followed by "also described as (metes and bounds description)". Replats may utilize the legal description of the recorded subdivision including the name of the subdivision, blocks and lots, as appropriate.
3. Dedication Statements: Statements of tracts of land to be dedicated to the City for parks, open space, drainage or other public uses, grants of easements and dedication of public streets and alleys to the City of Colorado Springs are required.
  - a. All plats with dedicated public streets, easements or tracts must have the following sentence in the dedication statement:

*The undersigned does hereby dedicate, grant and convey to the City of Colorado Springs those public streets, tracts and public easements as shown on the plat; and further restricts the use of all public easement to the City of Colorado Springs and/or its assigns; provided, however, that the sole right and authority to vacate, release or quitclaim all or any dedicated public streets, tracts and public easements shall remain exclusively vested in the City of Colorado Springs.*

- b. All plats with public streets or additional public right of way shall have the following sentence in the dedication statement:

*All public streets or additional public right-of-way are hereby dedicated to the City of Colorado Springs for public use.*

- c. All plats with other tracts being dedicated to the City shall have the following similar sentence in the dedication statement for each tract:

*Tract X is hereby dedicated to the City of Colorado Springs for (list the proposed public use, i.e., park, open space or drainage) and any other public use the City deems appropriate.*

- d. Not a part of the dedication statement, all plats with private streets shall have a special numbered plat note with the following sentence:

*All private streets (insert names) are privately owned and maintained by (list owner name, owner's association, etc.).*

- e. Not a part of the dedication statement, a special numbered plat note defining the purpose and perpetual surface maintenance responsibility for public easements or tracts shall be included such as:

*Easement or Tract X is for (list the proposed public use i.e., park, open space or drainage) with maintenance of the surface being vested in the (City, owner, homeowners' association or district, etc.).*

- f. Not a part of the dedication statement, a special numbered plat note defining the purpose and perpetual maintenance responsibility for private easements or tracts, shall be included, such as:

*Easement of Tract X is for (list the proposed private use, i.e., landscaping, private pocket park or drainage) with maintenance of the surface being vested in the (owner, homeowners' association or district, etc.).*

4. Statement Of Ownership And Acknowledgment: The notarized signature of the owner is required.
5. Statement Of Mortgagee And Acknowledgement: The signature of the mortgagee, if any, consenting to the dedication is required.
6. Notary Statement: Acknowledgment of the execution of the plat before a notary public.
7. Surveyor's Statement: The Surveyor's statement shall read:

*The undersigned Professional Land Surveyor licensed in the State of Colorado, hereby states and declares that the accompanying plat was surveyed and drawn under his/her responsible charge and accurately shows the described tract of land, and subdivision thereof, and that the requirements of Title 38 of the Colorado Revised Statutes, 1973, as amended, have been met to the best of his/her knowledge and belief.*

8. Development Of Area Subject To Code: A statement that the area included in the plat is subject to this Code as it applies to the development of the land per section [7.7.1101](#) of this article, to read:

*No building permits shall be issued for building sites within this plat until all required fees have been*

*paid and all required public and private improvements have been installed as specified by the City of Colorado Springs or alternatively until acceptable assurances including but not limited to letters of credit, cash subdivision bonds or combinations thereof guaranteeing the completion of all required public improvements including but not limited to drainage, street and erosion control have been placed on file with the City of Colorado Springs.*

9. Access Provisions:

- a. Statement Restricting Access: A statement restricting access rights across the right of way lines of major highways, parkways, streets or freeways, where required, as a provision of approval.
- b. Provision Of Adequate Access: Proof of adequate, suitable access must be provided and clearly indicated on the face of the plat. If access is not directly gained from public right of way, a separate signed and recorded easement must be provided and referenced on the face of the plat.

10. Vicinity Map: A vicinity location map necessary to locate the tract.

11. Preparation Date: Date of preparation of plat.

12. Easement Statement: When applicable, statement of standard easements as required on all side, rear and front lot lines for public utilities, drainage and/or public improvements, as well as standard "triangle" public improvement easements at street intersections, as necessary. When all easements are shown and clearly labeled on the plat drawing, an "as shown on plat" statement may be used. Perpetual surface maintenance of all public easements created by the plat shall be assigned.

13. Fee Block: Fee block (drainage, bridge, school and park).

14. Certificates For Execution: Certificates for execution by each of the following or their duly appointed representative(s):

- a. City Engineer.
- b. Community Development Manager.
- c. City Clerk.
- d. El Paso County Clerk and Recorder.

15. Boundary Lines: The subdivision boundary will be clearly distinguishable from other map lines by use of a distinct line type and/or thickness. All lines will be labeled with a complete bearing and distance, and all curves will be labeled with a central angle (delta), radius and arc length. Radial bearings and/or chord bearings will be provided for all nontangent curves. All dimensions to be determined by accurate field survey which must balance and close within limit of one in five thousand (5,000). Show adjacent and/or intersecting plat/deed lines and label appropriately to include recording information (book and page and/or reception number).

16. Streets: All street rights of way defined by the plat will be clearly distinguishable from other map lines by use of a distinct line type and/or thickness. All lines will be labeled with a complete bearing and distance, and all curves will be labeled with a central angle (delta), radius and arc length. Radial bearings and/or chord bearings will be provided for all nontangent curves. Widths shall be labeled from each right of way line normal to the corresponding street centerline. All street centerlines



defined by the plat will be clearly distinguishable from other map lines by use of distinct line type and/or thickness. The plat shall show the right of way lines, widths, locations and street names of all existing and proposed public or private streets:

- a. Within the proposed subdivision, and
  - b. Immediately abutting the proposed subdivision, and
  - c. Any private street shall include the designation "(private)" immediately following street name; any other private right of way that is not named shall include the designation "(private)" in a manner that clearly conveys such a status.
17. Easements: All easements as required by City Utilities, the City Engineer and other public and quasi-public agencies. All easements shall be clearly labeled to include width, use and identification as public or private, if necessary. Tie to property lines and annotate with bearings and distances as necessary. Clearly show and label all existing easements, to include width and book and page and/or reception number recording information, that cross, abut or are located within the subdivision boundary.
  18. Lots And Blocks: All lines of lots, blocks and other parcels of land defined by the plat will be clearly distinguishable from other map lines by use of a distinct line type and/or thickness. All lines will be labeled with a complete bearing and distance and all curves will be labeled with a radius and arc length. Lots must close to one in five thousand (1:5,000).
  19. Legend: Provide a legend which designates all lines and symbols except where called out on plat drawing.
  20. Inundation Mark: If within a designated FEMA flood hazard area, the plat shall clearly show the 100-year floodplain line. Reference the appropriate FEMA panel by which the location of this line has been determined as a plat note.
  21. Other Information: All other information required by State law.
  22. Bar Scale And North Arrow: Plat shall include an appropriately demarcated bar scale and a correctly orientated north arrow.
  23. Adjacent Subdivision: Names of adjacent platted areas along with the reception and/or plat book and page number shall be shown. If unplatted, so indicate. Existing street rights of way that intersect the subdivision boundary or are adjacent to said boundary lines shall be clearly labeled with the street name, right of way width and appropriate deed or plat recording information wherein the right of way is defined. Show and label all existing lots and blocks that are immediately adjacent to the subdivision boundary.
  24. Basis Of Bearing: A clearly defined basis of bearings shall be provided, both verbally and graphically. All monumentation defining said line shall be shown and labeled on the plat drawing. When said line is not common with the subdivision boundary, it shall be accurately tied to the boundary with bearings and distances or relevant curve information.
  25. Public Land And/Or Land Reserved In Deeds: Location of land intended to be conveyed or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision.

26. Monuments: All monuments used to determine and/or describe a boundary (including basis of bearings, point of beginning and point of commencement) shall be shown and clearly labeled on the plat drawing. Monuments for corners defined by the plat, or otherwise found to be missing in the field, shall be placed and set in accord with the requirements of the State of Colorado.
27. Not A Part Of Subdivision: All areas enclosed within the subdivision boundary which do not constitute a part of the subdivision shall be labeled "Not a part of this subdivision". All lines pertaining to such areas shall be dashed.
28. Square Footage: Label all lots and tracts with area in square feet (and/or acres when exceeding 1 acre).
29. Districts And Associations: Recordation information (reception number, etc.) shall be given on the plat for any maintenance district, metropolitan district, owners' association, etc., that is referenced on the plat as a body for any ownership and/or maintenance responsibility per the plat.

D. Supplemental Information And/Or Attachments Required Prior To Recording The Final Plat:

1. Fees: Recordation, review and processing fees.
2. Fee Payment: Check (certified check may be required) or cash in an amount equal to drainage basin fees, detention pond fees, arterial roadway bridge, surcharge and/or special district fees.
3. Proof Of Ownership Of Land Proposed To Be Platted: Proof of ownership may consist of a deed, title insurance policy or Tax Assessor's statement.
4. Ad Valorem Taxes: Verification by the El Paso County Tax Assessor's Office that all ad valorem taxes applicable to the land comprising the proposed subdivision for the current year up to the date of recording and for years prior to the year in which the final plat is submitted for recordation have been paid. Verification may be in the form of a paid tax receipt, an archive report, or a certificate for ad valorem property taxes.
5. Final Drainage Report: A final drainage report (or "drainage letter" when applicable), signed by the City Engineer, must be submitted with the mylar prior to recording.
6. Geologic Hazard Study: Copy of the approved Geologic Hazard Study or exemption.
7. Reception Numbers: Reception numbers of all applicable easements, agreements and documentation as may be referenced on the subdivision plat drawing, or accompanying documentation for recording.
8. Documentation: Any or all accompanying documentation fully executed and ready for recordation concurrent with the subdivision plat.
9. Assignments: Fully executed assignments of any reimbursements and/or land dedication credits, as applicable.
10. Financial Assurances: Acceptable financial assurances as required. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 09-79)

### **7.7.304: MODIFICATIONS:**

The Community Development Department may approve modifications to the approved final plat prior to its recording only when all of the following conditions exist:

- A. The rearrangement of lot lines does not increase the number of lots within the subdivision; and
- B. The rearrangement of lot lines does not move an approved lot line by more than ten feet (10');  
and
- C. The requested modification is in conformance with the Zoning Code of this chapter and this Subdivision Code, as amended; and
- D. None of the reviewing agencies objects to the requested modification. (Ord. 96-44; Ord. 01-42; Ord. 03-16; Ord. 09-80)

### **7.7.305: REPLAT REQUIREMENTS:**

A replat may be filed whenever it is desired to make changes to an existing plat. The replat shall refer to the plat describing the land, which has been previously platted and recorded, but not vacated, and which is to be replatted in accord with this section. Approval of the replat vacates the previous platting of the area replatted.

- A. A replat shall be processed as specified in this part.
- B. The title block of the replat shall identify the subdivision of record or that portion of the subdivision of record which is being replatted. The replat shall be identified by its own title. Example: "ABC Subdivision, a replat of Lots 4, 5 and 6 of Block 3 of XYZ Subdivision".
- C. The replat shall contain the following notice: "The approval of this replat vacates all prior plats for the area described by this replat".
- D. The replat shall clearly depict two (2) drawings, one showing the "as platted" lot and easement configuration and the other drawing showing the "as replatted" lot and easement configuration.
- E. The entire portion of all original platted lot(s) must be contained within the replat unless a waiver is approved in accord with part 13 of this article.
- F. Show existing easements, including book and page number or reception number and all proposed easements. (Ord. 96-44; Ord. 01-42; Ord. 09-80; Ord. 12-75)

### **7.7.306: RECORDING PROCEDURES:**

- A. Once the applicant receives a written approval letter from the Community Development Department approving the final plat, the applicant shall submit a mylar copy of the final plat to the Community Development Department for recording within one year of the date of the approval letter. Failure to comply with this provision shall void the final approval and the subdivider/applicant shall be required to submit a new final plat application for review. Prior to expiration of the initial approval period, the manager may grant one or more extensions for a period of not more than one year upon the subdivider/applicant's request.
- B. The final plat approved by the Community Development Department, City Engineer and City Clerk shall be recorded by the City within three (3) business days of the final City signature. (Ord. 96-44; Ord. 01-42; Ord. 09-80; Ord. 12-75)

## PART 4 VACATION PLATS, PLATTING PROCEDURES



- [7.7.401: VACATION PLAT REQUIRED:](#)
- [7.7.402: VACATION PROCEDURES:](#)
- [7.7.403: VACATION PLAT REQUIREMENTS:](#)
- [7.7.404: VACATION SKETCH REQUIREMENTS:](#)
- [7.7.405: RECORDING PROCEDURES:](#)

### **7.7.401: VACATION PLAT REQUIRED:**

The applicant shall file a vacation plat on all land proposed for reversion to acreage, or vacation of a dedicated public street or alley unless determined by the Community Development Department that a vacation plat is not required. If a vacation plat is not required, then the applicant shall submit a vacation sketch, conforming to the requirements of section [7.7.404](#) of this part, and shall indicate at the time of submission to the Community Development Department whether or not existing easements are to be retained and, if so, whether they are drainage or utility easements, or both. (Ord. 96-44; Ord. 01-42; Ord. 06-13; Ord. 09-80)

### **7.7.402: VACATION PROCEDURES:**

A. Distribution: The Community Development Department shall date and file the vacation request upon receipt from the applicant. Within five (5) days after the appropriate submittal date for filing said vacation request, the Community Development Department shall transmit copies to appropriate agencies for review, comments and recommendations for compliance with their requirements.

B. Action On Vacation Plats Or Sketches:

1. If there are no dedicated public streets or alleys within the proposed vacation plat, the vacation plat shall be processed in conformance with the procedures for final plats as specified in section [7.7.302](#) of this article.
2. If the proposed vacation plat or sketch contains dedicated public streets or alleys, the Community Development Department shall notify the applicant in writing of the comments and recommendations of reviewing agencies and shall place the item on the next City Council agenda for which public notice can be given. If the vacation plat or sketch also involves an accompanying application requiring Planning Commission action, the vacation plat or sketch shall be presented to the Planning Commission for consideration in conjunction with the application, prior to the vacation plat or sketch being forwarded to City Council for consideration.

The City Council shall approve, approve with conditions, or deny the vacation plat or sketch. An action by the City Council in vacating a dedicated public street or alley shall become final on adoption of the vacation ordinance and may not be reconsidered or rescinded.

C. Review Criteria: The vacation of right of way is solely at the discretion of the City Council. An application for vacation of public right of way may be approved by City Council only if the request complies with the following criteria:

1. The right of way is no longer needed for public transportation purposes;
2. The vacation will not adversely impact use of the right of way for public utility and/or drainage purposes;
3. The vacation will not adversely impact the uniform width of the remaining portions of the public right of way along the block frontage for which vacation is sought;
4. Access to lots or properties surrounding the public right of way will not be adversely affected; and
5. The vacation is consistent with the purpose of this Subdivision Code. (Ord. 96-44; Ord. 01-42; Ord. 06-13; Ord. 09-80; Ord. 12-75)

#### **7.7.403: VACATION PLAT REQUIREMENTS:**

A. Preparation: A vacation plat shall consist of both a preliminary and final plat. The final plat shall be clearly and legibly prepared by a land surveyor or professional engineer licensed by the State of Colorado. The plat shall comply with the provisions of this section and State law.

B. Submission: The applicant shall make application to the Community Development Department as follows:

1. Application Form: The applicant shall submit with the vacation plat a completed vacation plat application form and vacation plat checklist as provided by the Community Development Department.
2. Submission Fee: The applicant shall submit appropriate fees with the vacation request.
3. Required Number Of Plats: The applicant shall submit the required number of plats or drawings.

4. Public Notice: The public notice requirements as defined by article 5, part 9 of this chapter shall apply.

C. Sheet Size: The sheet size shall be twenty four inches by thirty six inches (24" x 36") including one-half inch ( $\frac{1}{2}$ " ) border with "landscape" orientation. North may be oriented from plus ninety degrees (+90°) to minus ninety degrees (-90°) of "true north".

D. Scale: The vacation plat shall be drawn to a scale acceptable to the City Engineer.

E. Information Required On Vacation Plats:

1. Subdivision Name, Subtitle: Name of subdivision at the top of the sheet, followed by a subtitle identifying the section, township and range information along with City, County and State.
2. Property Description: An accurate and clear property (legal) description of the overall boundary of the subdivision with the acreage of the subdivision. All courses in the property (legal) description shall be shown and labeled on the plat drawing, with all bearings having the same direction as called out in the legal description. The only exception being where more than one description is required, going a different direction over the same course. The direction shall then hold for the description having more weight (i.e., the overall boundary) for purposes of the plat. If both record and "as measured" dimensions are being used, the applicant shall show both and have each clearly labeled on the plat drawing. Point of commencement and/or point of beginning shall be clearly labeled on the plat drawing.
3. Preparation Date: Date of preparation, scale and north point.
4. Vicinity Map: A vicinity location map necessary to locate the tract.
5. Surveyor's Statement: Statement by a registered land surveyor to the effect that the plat to be vacated is a recorded plat.
6. Notary Statement: Acknowledgment of the execution of the plat before a notary public.
7. Certificate Of Execution: Certificate for execution by each of the following or the appointed representative(s):
  - a. City Engineer.
  - b. City Clerk and Mayor.
  - c. County Recorder.
  - d. Utilities Executive Director.
8. Statement Of Ownership: Statement of ownership and acknowledgment.
9. Layout: The exact layout including:

- a. Boundary Lines: The boundary lines with accurate distance and bearings, the exact location and width of all existing or recorded streets intersecting the boundary of the tract.
  - b. Dimension, Relative Bearing, Curve Data: The length of all arcs, internal angles and points of curvature.
  - c. Easements: All existing drainage and utility easements as recorded, subject to reservation of easements for existing drainage and utility installations.
  - d. Lots, Blocks And Identification System: All lines of lots, blocks, identification system and other parcels of land as recorded.
  - e. Streets: The plat shall show the right of way lines, widths, locations and street names of all streets as recorded within, and immediately adjacent to the property being vacated.
  - f. Inundation Mark: As recorded on the previous plat.
10. Other: All other information required by State law.
11. Square Footage Of Area: The area in square feet of that which is sought to be vacated.

F. Ad Valorem Taxes: Certification of the El Paso County Treasurer's Office that all ad valorem taxes applicable to the land comprising the proposed subdivision for years prior to the year in which the vacation plat is submitted have been paid. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 06-13; Ord. 09-80)

#### **7.7.404: VACATION SKETCH REQUIREMENTS:**

A. Submission: The applicant shall make application to the Community Development Department as follows:

- 1. Application Form: The applicant shall submit with the vacation sketch a completed vacation application form as provided by the Community Development Department.
- 2. Submission Fee: The applicant shall submit appropriate fees together with the vacation request.
- 3. Required Number Of Drawings: The applicant shall submit the required number of drawings.
- 4. Public Notice: The public notice requirements as defined by article 5, part 9 of this chapter shall apply.

B. Information Required For Vacation Sketch:

- 1. Subdivision Name: Subdivision name.
- 2. Legal Description: An accurate and clear property (legal) description of the overall area to be vacated.

3. Date, Scale And North Point: Date of preparation, scale and north point.
4. Vicinity Map: A vicinity location map necessary to locate the property.
5. Layout: The drawing shall show the following:
  - a. Easements: All existing drainage and utility easements as recorded, subject to reservation of easements for existing drainage and utility installations.
  - b. Lots, Blocks And Identification System: All lines of lots, blocks, identification system and other parcels of land as recorded.
  - c. Streets: The drawing shall show the right of way lines, widths, locations and street names of all streets as recorded within, and immediately adjacent to the property being vacated. (Ord. 06-13; Ord. 09-80)

#### **7.7.405: RECORDING PROCEDURES:**

If City Council approves a vacation plat, the applicant shall submit to the Community Development Department the vacation plat sketch plan or mylar. The City shall be responsible for the recordation of the sketch plan or mylar. (Ord. 96-44; Ord. 01-42; Ord. 06-13; Ord. 09-80; Ord. 12-75)

## **PART 5 MINOR ADMINISTRATIVE PROCEDURES**

### **7.7.501: PROPERTY BOUNDARY (LOT LINE) ADJUSTMENTS:**

### **7.7.502: PRESERVATION AREA BOUNDARY AMENDMENTS:**

### **7.7.503: RESOLUTIONS FOR AMENDING PLAT RESTRICTIONS:**

### **7.7.504: ISSUANCE OF BUILDING PERMITS TO UNPLATTED LANDS:**

### **7.7.505: WAIVER OF REPLAT:**

#### **7.7.501: PROPERTY BOUNDARY (LOT LINE) ADJUSTMENTS:**

A. Requirements: This process constitutes an administrative waiver, which may only be approved if all requirements of this part are met. Under no circumstances may an applicant request a waiver to any of the approval requirements. Changes may be made to platted lots without the necessity of replatting or vacation and platting only when the following conditions exist:

1. When an engineering error was made on the original plat; or
2. When no additional lot is being created; and
  - a. The proposed lotting pattern meets all requirements of this article including adequate setbacks and area requirements for any existing development; and



- b. The proposal has been properly submitted to the Community Development Department and reviewed by all appropriate agencies, with no agency having objections to the adjustments; and
- c. Only two (2) whole platted lots or a platted lot and a platted tract may be involved in a single action. Neither lot involved may have received a prior property boundary adjustment; or approval of issuance of building permit to previously platted lands; or a combination of lots for zoning purposes. Thus, submitting a series of requests cannot circumvent the fifteen percent (15%) limitation below. Actions requiring approval of both an issuance of building permit to previously platted lands and a property boundary adjustment are specifically prohibited. This limitation shall not strictly apply to lots located within an area of common or central ownership (townhouses, etc.). In areas where the adjustment is between a lot and a surrounding lot or platted tract, the surrounding lot or tract may receive as many adjustments as are necessary so as to allow each contained lot to be adjusted one time; and
- d. No more than fifteen percent (15%) of the area of any one platted lot is involved in the adjustment. Basic lot configurations cannot be changed. Under these provisions two (2) north-south lots cannot be changed to two (2) east-west lots with this procedure. This procedure allows one side property line to be moved ten feet (10') or an area of one thousand one hundred (1,100) square feet to be affected on a typical residential lot seventy feet by one hundred ten feet (70' x 110'). It does not allow a lot to be totally shifted ten feet (10') in one direction or another because such a shift involves a minimum of three (3) lots and will not be considered a boundary adjustment that can be administratively approved.

B. Submission: All of the following shall be required:

- 1. A completed application form, as required by the Community Development Department, together with any applicable fees.
- 2. Recording fee.
- 3. Proof of ownership of each of the lots involved and written concurrence of each of the owners with the proposed changes.
- 4. The appropriate number of certified property surveys as required by the Community Development Department, which shall include:
  - a. The subdivision name, lot(s) and block numbers, and the book and page of the recorded plat;
  - b. All existing lot lines and easements with dimensions;
  - c. Adjacent right of way with dimensions;
  - d. All existing structures which will remain with dimensions to existing and proposed property lines;
  - e. North arrow and scale;
  - f. Approval statement as follows:

*This Property Boundary Adjustment has been reviewed and approved by the City of Colorado Springs and is henceforth to be considered the valid lot configuration for purposes of the City Codes*

and Ordinances.

*Community Development  
Department*

- C. Distribution: The Community Development Department shall date and file the application and within three (3) working days of submission shall transmit copies of the survey to the appropriate agencies for review, comments and recommendations for compliance with their requirements.
- D. Easements: Existing platted easements adjacent to the property line being adjusted shall remain in their original locations as platted unless otherwise approved by the affected utilities.
- E. Community Development Department Action: The Community Development Department shall either approve or disapprove the request. The request shall be approved by signing a copy of the submitted survey. The application and a signed copy of the survey shall be recorded in the records of the El Paso County Clerk and Recorder. If the request is disapproved, the Community Development Department shall notify the applicant with all reasons for denial clearly specified.
- F. Appeals: Repealed.
- G. Transfer Of Property: Approval of a property boundary adjustment does not transfer property between the two (2) affected property owners. Said real estate transfer must be achieved through separate action by both property owners involved, i.e., quitclaim deeds, etc. (Ord. 96-44; Ord. 01-42; Ord. 03-16; Ord. 09-80)

### **7.7.502: PRESERVATION AREA BOUNDARY AMENDMENTS:**

Preservation area boundaries platted and recorded in accord with part 3 of this article may be amended under this provision. Major or minor boundary amendments to "preservation areas" may be submitted for review in accord with the standards established in this section. The purpose and intent of this section is to implement the hillside overlay in the zone district.

A. Submission: All of the following shall be required:

1. Application: A completed application form, as required by the Community Development Department, together with any applicable fees.
2. Fee: Recording fee.
3. Proof Of Ownership: Proof of ownership.
4. Certified Property Surveys: The appropriate number of certified property surveys as required by the Community Development Department, which shall include:
  - a. The subdivision name, lot(s) and block numbers, and the book and page of the recorded plat;

- b. All existing lot lines and easements with dimensions;
- c. All preservation area boundaries, as originally approved and as proposed;
- d. Adjacent right of way with dimensions;
- e. All existing structures with dimensions to property lines;
- f. North arrow and scale;
- g. The following statements:

*The PRESERVATION AREA Boundary Adjustment has been reviewed and approved by the City of Colorado Springs and is henceforth to be considered the valid lot(s) configuration for purposes of the City Codes and Ordinances.*

*Community Development  
Date  
Department*

and

*STATE OF COLORADO)  
) ss.  
COUNTY OF EL PASO)*

*I being the owner of the following described property (type legal description): do hereby request that the preservation area boundaries of said property be adjusted as shown in the attached certified property survey and that this henceforth be considered the valid lot(s) configuration for purposes of the City Codes and Ordinances.*

*Owner's Signature  
Date*

*Subscribed and sworn before me this day of , .*

*My commission expires:*

*Notary Public*

5. Public Notice: The public notice requirements as defined by part 1 of this article shall apply.

B. Distribution: The Community Development Department shall date and file the application and within three (3) working days of submission shall transmit copies of the survey to the appropriate agencies for review, comments and recommendations for compliance with their requirements.

C. Planning Commission Action: The Planning Commission shall review amendments to "preservation area" boundaries on recorded subdivision plats, which involve four (4) lots, or more in accord with the procedures as set forth in this section.

D. Community Development Department Action: The Community Development Department shall review amendments to "preservation area" boundaries on recorded subdivision plats, which involve three (3) lots or less in accord with the procedures as set forth in this section. The Community Development Department shall either approve or disapprove the request. If the request is approved, a signed copy of the survey shall be recorded in the records of the El Paso County Clerk and Recorder. If the request is disapproved, the Community Development Department shall notify the applicant with all reasons for denial clearly specified. (Ord. 96-44; Ord. 01-42; Ord. 03-16; Ord. 09-80)

### **7.7.503: RESOLUTIONS FOR AMENDING PLAT RESTRICTIONS:**

It is recognized that restrictions and conditions, which are placed on recorded plats, may need to be removed because they no longer apply or are unnecessary.

A. Requirements: Restrictions and conditions on recorded plats may be removed if it is determined after a review by the Community Development Department, the City Engineer and the Utilities Executive Director, the requirements or conditions are no longer necessary or no longer applicable.

B. Submission:

1. Letter; Filing Fee: A letter setting forth the reasons for removing the restriction in question together with the filing fee established by City Council.
2. Copies Of Recorded Plat: A sufficient number of copies of the recorded plat to provide a copy to each agency with an interest in the restriction.
3. Public Notice: The public notice requirements as defined by part 1 of this article shall apply.

C. Distribution: The Community Development Department shall date and file the application and within the three (3) working days of submission shall transmit copies of the recorded plat to those agencies having an interest in the restriction that is to be removed for their review and comments.

D. Community Development Department Action: The Community Development Department shall either approve or disapprove the request.

1. Approval: If the Community Development Department, upon concurrence of the City Engineer and the Utilities Executive Director, approves the request, a resolution detailing the amendment shall be placed upon the next available City Council agenda as a report item.
2. Disapproval: The Community Development Department shall notify the applicant with all reasons for denial clearly specified.
3. Appeals: Any person aggrieved by any action of the Community Development Department in relation to this section may appeal such action to the Planning Commission in writing specifying the reasons for the appeal within ten (10) days of the date of said action.

E. Appeal To Planning Commission: The Planning Commission shall hear requests for removal of plat conditions and restrictions, which have been appealed from a decision of the Community Development Department.

1. Approval: If the Planning Commission approves the amendment, a resolution shall be recorded detailing the action.
2. Disapproval: If the Planning Commission finds the restrictions or conditions are necessary, then the amendment shall be denied.

F. Appeal To City Council: The City Council shall hear requests for removal of plat conditions and restrictions, which have been appealed from a decision of the Planning Commission.

1. Approval: If the City Council approves the amendment, a resolution shall be recorded detailing the action.
2. Disapproval: If the City Council finds the restrictions or conditions are necessary, then the amendment shall be denied. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 09-80)

#### **7.7.504: ISSUANCE OF BUILDING PERMITS TO UNPLATTED LANDS:**

It is the purpose of this part to alleviate platting costs to land which was developed and within the City on February 13, 1951, or subsequently annexed to the City but unplatted because platting was not required at the time that the land was developed, or a parcel of land created no later than September 1, 1972, or the land is owned by the City of Colorado Springs and used for park and recreation purposes. This process constitutes an administrative waiver, which may only be approved if all requirements of this section are met. Under no circumstances may an applicant request a waiver to any of the approval requirements. Building permits shall be issued without requiring platting only for the following particular cases:

A. Structural Addition: When a structural addition, attached or otherwise, is to be constructed in compliance with the provisions of this article and the following conditions exist:

1. The addition constitutes no change in land use; and
2. The addition will not require street extension; and
3. The proposed structural addition will not intrude upon setback lines determined by the City Traffic Engineer to accommodate any proposed rights of way; and
4. Drainage fees are paid if the proposed structural addition or previous additions attached or otherwise, results in a floor area which exceeds by fifty percent (50%) the area of the structure existing on July 18, 1975, or the date of annexation if annexation is after July 18, 1975; and
5. The owner agrees to dedicate rights of way, which would normally be required as a condition of a platting. If this is required, the owner must dedicate the right of way by a separate deed and pay for the preparation and recording of the deed after such deed is approved by real estate services; and

6. The request has been submitted and reviewed in conformance with the procedures set forth below and no City reviewing agency objects to the request.

B. Submission:

1. A completed application as required by the Community Development Department, together with any applicable fees.
2. The appropriate number of dimensionalized site plans as required by the Community Development Department, which shall include:
  - a. The legal description of the property;
  - b. All existing lot lines and easements with dimensions. Show and clearly label existing utilities located on the site;
  - c. Adjacent right of way with dimensions;
  - d. Location, dimensions and setbacks of all existing and proposed structures, if any, and their floor area;
  - e. Owner's name, address and phone number;
  - f. North arrow and scale;
3. The following statement shall be added to the submitted site plan:

*Under the provisions of Chapter 7, Article 7, Section 504 of the Code of the City of Colorado Springs 2001, as amended, the ownership configuration detailed on this site plan is eligible for the issuance of a building permit to unplatted land. Compliance with all other applicable requirements of the City of Colorado Springs and the Regional Building Department is required. Approval of this request pertains only to the application submitted and does not release the applicant from complying with other requirements.*

C. Community Development Department Action: This process constitutes an administrative waiver, which may only be approved if all requirements of this part are met. Under no circumstances may an applicant request a waiver to any of the approval requirements. The Community Development Department shall either approve or disapprove the request based upon the criteria found in this section.

1. Approval: If the Community Development Department approves the request, the applicant will be provided a signed copy of the submitted plan.
2. Disapproval: The Community Development Department shall notify the applicant with all reasons for denial clearly specified. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 03-16; Ord. 09-80; Ord. 17-2)

**7.7.505: WAIVER OF REPLAT:**   

It is the purpose of this part to alleviate platting costs in older subdivisions. It is not the purpose of this part to promote the subdivision or resubdivision of lots without filing a final plat. This process constitutes an administrative waiver, which may only be approved if all requirements of this part are met. Under no circumstances may an applicant request a waiver to any of the approval requirements.

A. Eligibility: Properties eligible to apply for waiver of replat must satisfy the following criteria:

1. The current legal description comprises one of the following:
  - a. The consolidation of multiple whole platted lots; or
  - b. The parcel is a lot of record; or
  - c. Portions of one or more platted lots and the parcel contains the minimum lot area and minimum width for the zone district in which the property is located; or
  - d. A platted lot and an unplatted portion of vacated right of way.
2. If the legal description of the subject property consists of a portion of one or more platted lots, proof must be provided that the current property owner of the subject property was not involved in the illegal subdivision of said parcel.
3. The owner agrees to dedicate rights of way, which would normally be required as a condition of a replat. If this is required, the owner must dedicate the right of way by a separate deed and pay for the preparation and recording of the deed after such deed is approved by the real estate services; and
4. No major public improvements such as drainage structures are required; and
5. Approved direct access to an acceptable, existing public street exists; and
6. The applicant agrees to pay applicable fees which would normally be paid prior to recording of the replat; and
7. The applicant agrees to dedicate easements required for utilities and access; and
8. No structures exist across external property lines of the ownership configuration.

B. Submission: All of the following shall be required:

1. A completed application form, as required by the Community Development Department, together with any applicable fees;
2. Recording fee;
3. Proof of ownership;

4. Proof of the date of the creation of the legal description of the parcel under consideration;
5. The date of annexation of the parcel;
6. Copy of the recorded plat in order to verify rights of way;
7. A site plan, drawn to scale, which includes all of the following:
  - a. All of each platted lot of which the parcel is a part;
  - b. The boundaries and dimensions of the ownership configuration;
  - c. Location, dimensions and setbacks of all existing structures;
  - d. Show and clearly label existing utilities located on the site;
  - e. Location, names and rights of way of all adjacent streets and alleys;
  - f. All access points on property adjacent to or across the street from the applicant's property;
  - g. A bar scale and north arrow;
  - h. The legal description of the parcel;
  - i. The book and page and/or reception number of the recorded plat of which this parcel is a part; and
  - j. The owner's name, address and phone number.
8. The following statement:

*Under the provisions of Chapter 7, Article 7, Section 505 of the Code the following legal description is henceforth considered as one lot for purposes of the Zoning Code (Chapter 7, Article 2 through 5 of the City Code) 1 lot for the applicable provisions of the subdivision code and 1 lot for any other applicable provisions of the City Code or including applicable codes rules and regulations adopted pursuant to the City Code.*

9. Unless vacated, existing easement(s) adjacent to the property line shall remain in their original locations as platted.

C. Community Development Department Action: The Community Development Department shall either approve or disapprove the request based upon the criteria in this section.

1. Approval: If the Community Development Department approves the request, the site plan shall be recorded with the El Paso County Clerk and Recorder's Office.
2. Approval With Conditions: If the Community Development Department approves the request with conditions, the applicant shall fulfill the conditions of approval prior to the issuance of certificate of occupancy.



3. Disapproval: The Community Development Department shall provide notification to the applicant with all reasons for denial clearly specified. (Ord. 96-44; Ord. 01-42; Ord. 03-16; Ord. 09-80; Ord. 12-75; Ord. 17-2)

## **PART 6 DESIGN STANDARDS**

### **7.7.601: APPLICATION:**

### **7.7.602: CONFORMITY WITH COMPREHENSIVE PLAN:**

### **7.7.603: REMNANTS OF LAND:**

### **7.7.604: BLOCK STANDARDS:**

### **7.7.605: LOT STANDARDS:**

### **7.7.606: RESIDENTIAL LOT DESIGN ADJACENT TO MAJOR STREET:**

### **7.7.607: EASEMENTS:**

### **7.7.608: RAILROAD RIGHTS OF WAY:**

### **7.7.609: HILLSIDE DEVELOPMENT:**

### **7.7.601: APPLICATION:**

The design standards established in this part shall be applied by the Planning Commission and/or staff assigned to perform an administrative review in evaluating a proposed plat of subdivision. (Ord. 96-44; Ord. 01-42)

### **7.7.602: CONFORMITY WITH COMPREHENSIVE PLAN:**

The Community Development Department and/or the Planning Commission shall study the plat of subdivision in connection with the standards established within the City's Comprehensive Plan. (Ord. 96-44; Ord. 01-42; Ord. 09-80)

### **7.7.603: REMNANTS OF LAND:**

Substandard remnants of land shall be prohibited unless designated as tracts and adequate assurance is provided to incorporate the tracts into usable lots in future developments. (Ord. 96-44; Ord. 01-42)

### **7.7.604: BLOCK STANDARDS:**

Block design shall conform to sound subdivision design principles and the length, width and the shape shall be determined with due regard to:

A. Zoning district requirements as to lot size.

B. Topographic conditions.

C. Need for safe, convenient access and traffic circulation. (Ord. 96-44; Ord. 01-42)

**7.7.605: LOT STANDARDS:**  

A. General: The size, shape and orientation of lots shall be appropriate to the proposed subdivision location and to the type of development contemplated and shall conform to requirements of this Code.

B. City Limits Line: No lot shall be divided by a City limit line.

C. Access: Each lot in a new or replatted subdivision shall be provided with satisfactory access to a dedicated public street.

D. Double Frontage: Double frontage lots, other than corner lots, will not be permitted unless approved by the Manager, Planning Commission and/or City Council.

E. Flag Lots: May be allowed where warranted by physical conditions of landform, existing lot pattern or unusual size or shape of parcel(s). The narrow strip of land connecting the main portion of a flag lot to the street shall be not less than twenty feet (20') wide at any point so long as five foot (5') side lot utility easements are provided adjacent to the flag lot lines. If public utility easements are not provided the stem portion of the flag lot shall be not less than twenty five feet (25') in width. The narrow strip of land shall also provide for practical vehicular and utility access. It shall not be used to help satisfy the minimum lot area requirement of the zoning district.

F. Large Lots: If a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged to allow the opening of future streets and logical further subdivision. (Ord. 96-44; Ord. 01-42)

**7.7.606: RESIDENTIAL LOT DESIGN ADJACENT TO MAJOR STREET:**  

If a frontage road is not provided for a single-family or duplex lot fronting onto a major street, the subdivider shall cause the design of the subdivision to conform to one of the alternative design treatments stated below:

A. Lots abutting the major street shall have vehicular access from the existing or proposed alley adjacent to the rear lot line, or

B. Lots abutting the major street shall have vehicular access from the minor street adjacent to the through lot. (Ord. 96-44; Ord. 01-42)

**7.7.607: EASEMENTS:**  

A. Maintenance Of Easements: Except as otherwise provided by plat note or as provided in any easement granted to the City by separate instrument, the property owner shall be responsible for

the maintenance of all easements granted or dedicated to the City, and all easements granted or dedicated to the City on behalf of its enterprise, Colorado Springs Utilities, or for public utilities.

- B. Utility Easements: Utility easements shall be not less than five feet (5') in width on both sides of all side lot lines and seven feet (7') in width on both sides of all rear lot lines and where street rights of way are fifty feet (50') or less in width provide a five foot (5') front lot utility easement adjacent to right of way unless waived by the Utilities Executive Director, the Director's designated representative or the Manager. All required utility drainage and other public improvement easements shall be placed on the final plat prior to recording.
- C. Drainage Easements: All required drainage easements shall be placed on the final plat and so marked prior to recording. Further, all drainage easements that are not on the City's approved drainage plan shall be marked "private drainage easements" on the plat, or a statement shall be placed on the final plat that the City is not responsible for the maintenance of said easements, prior to recording.
- D. Dual Easement: Where an easement is proposed for both utilities and drainage facilities, the following minimum standard shall apply: Dual easements shall be not less than seven feet (7') in width on both sides of all lot lines. Said easement shall be designated on the final plat as a dual easement prior to recording.
- E. Access And Parking Easements: All required common access, ingress-egress and parking easements shall be shown on the final plat and indicated whether public or private. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 12-75)

#### **7.7.608: RAILROAD RIGHTS OF WAY:**

Where a subdivision adjoins a railroad right of way, provisions of space for grade separations, buffer strips and other protective treatment shall be made to the extent and type required by the Planning Commission and the City Council. (Ord. 96-44; Ord. 01-42)

#### **7.7.609: HILLSIDE DEVELOPMENT:**

A monitored smoke alarm system or a sprinkler system shall be required for all new homes on lots with lot lines that are more than one thousand feet (1,000') from the entrance of a cul-de-sac or lie on or beyond roadways with grades in excess of ten percent (10%), if those roadways are the only points of vehicular access. These lots shall be identified on the subdivision plat. This requirement shall not apply to subdivision plats recorded prior to March 24, 1981, or to subdivisions for which a development plan was approved prior to April 1, 1993. (Ord. 96-44; Ord. 01-42)

## **PART 7 STREETS IN SUBDIVISIONS**

### **7.7.701: PURPOSE:**

**7.7.702: POLICY:**

**7.7.703: DEFINITIONS:**

**7.7.704: REGULATIONS FOR STREETS SHOWN ON PLATS SUBMITTED FOR APPROVAL:**

**7.7.705: RIGHT OF WAY DEDICATION AND STREET IMPROVEMENTS:**

**7.7.706: REIMBURSEMENTS:**

**7.7.701: PURPOSE:**  

It is the purpose of this part to set forth policies and procedures of the City pertaining to streets in the land development (subdivision) process. (Ord. 96-44; Ord. 01-42)

**7.7.702: POLICY:**  

- A. It is the general policy of the City that streets shall be planned, located, constructed, named and numerically addressed to promote the health, welfare and safety of the public. Streets in the City shall provide for ease of vehicle, pedestrian, and public transit circulation and the lessening of traffic congestion. Streets shall be designated and constructed for vehicular and pedestrian safety, and shall provide for safe and convenient resolution of potential conflicts between alternative modes of transportation.
  
- B. It is the policy of the City that major streets, as defined below, shall provide for the rapid and relatively unimpeded movement of vehicular traffic throughout the City, while still accommodating safe and convenient movement of pedestrians on the City's arterial streets, and that major streets shall be located so as to provide access to major land use and/or activity centers in the City.
  
- C. It is the policy of the City that minor streets, as defined below, shall provide access to all property in the City. (Ord. 96-44; Ord. 01-42; Ord. 03-157)

**7.7.703: DEFINITIONS:**  

The following terms, as used in this part, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision. Street classifications shall be as set forth in the traffic engineering policy and design standards.

**MAJOR STREET:** An actual or proposed street with a right of way width greater than sixty feet (60') which provides for the rapid and relatively unimpeded movement of vehicular traffic between major activity centers in the City, while accommodating public transit and pedestrian movements on the City's arterial streets. Each major street in the City shall be classified as:

- A. A freeway, or
  
- B. An expressway, or

C. A major arterial, or

D. A minor arterial, or

E. A TND parkway.

MINOR STREET: An actual or proposed street with a right of way width of sixty feet (60') or less which provides access to property in the City. Each minor street in the City shall be classified as:

A. A collector street, major or minor, or

B. A residential street, or

C. A minor residential street, or

D. A hillside minor residential street, or

E. A local street, or

F. An industrial street, or

G. A frontage street, or

H. An alley. (Ord. 96-44; Ord. 01-42; Ord. 02-153; Ord. 03-157)

**7.7.704: REGULATIONS FOR STREETS SHOWN ON PLATS SUBMITTED FOR APPROVAL:**  

A. Street System: Design and development of the street system in a plat submitted for approval shall conform to the requirements of this part. Whenever a tract of land to be platted embraces or abuts a major street designated on the major traffic thoroughfare plan, such section of the major street shall be dedicated and constructed in the location and at the width indicated on the plan.

B. Street Design:

1. Basic Street Design: Except in cases where the major traffic thoroughfare plan or an official plan line specifies a greater or lesser width as a minimum, the minimum right of way, roadway, planter strip, sidewalk and pedestrianway widths shall be as indicated in the subdivision policy manual.

- a. On Street Bicycle Routes: All streets designated by the bicycle plan as on street bicycle routes shall be designed as indicated in the traffic engineering policy and design standards. In addition, the subdivider shall submit a master facilities plan to the City Engineer and Utilities Executive Director for review and approval. The master facilities plan shall show the placement and size of all public facilities including curb, gutter, sidewalks, pavement, utility lines and storm drainage facilities and easements.
- b. Off Street Bicycle Paths Located Adjacent To Arterial Streets: Where bicycle paths are to be located adjacent to arterial streets, as shown by the bicycle plan, the street right of way, bike path and planter strip dimensions shall be designed as indicated in the traffic engineering policy and design standards. In addition, the subdivider shall submit a master facilities plan to the City Engineer and Utilities Executive Director for review and approval. The master facilities plan shall show the placement and size of all public facilities including curb, gutter, sidewalks, pavement, utility lines and storm drainage facilities and easements.
2. Frequency Of Street Intersections And Visibility: Street intersections shall be at right angles or as nearly so as topography and other limiting factors of good design will permit. "T" or "cross" intersections shall be used wherever possible and intersections designed on a curve shall not be allowed except when topography or other limiting factors warrant. Frequency of intersections shall be as outlined in the Zoning Code, as applicable, and in the subdivision policy manual.
3. Cul-De-Sac Regulations: The design and overall length of a cul-de-sac shall be determined by topography, type of development, proposed density, and other physical factors, which may warrant special consideration. For any cul-de-sac over five hundred feet (500') long, as measured from the curb line at the farthest end of the cul-de-sac to the centerline of the through street to which it connects, written approval must be obtained from the Fire Department and Utilities Department prior to Planning Commission or the Community Development Department approval of the plat containing the proposed cul-de-sac.
4. Half Streets: Half streets or portions of a street shall not be permitted.
5. Alleys: Where provided, alleys shall be fully improved to the specifications of the public works design manual/subdivision policy manual, shall contain a right of way width of at least twenty feet (20') and shall be certified by the City Engineer as meeting such design specifications. The Planning Commission may prescribe the installation of alleys in commercial and industrial areas when such alley(s) are necessary for good traffic circulation.
6. Grades: Grades shall be as prescribed in the subdivision policy manual.
7. Curves: Minimum horizontal and vertical curves shall be as prescribed in the subdivision policy manual.
8. Future Streets: The street system shall provide for the future projection of principal streets into adjoining unsubdivided lands, when such connections are necessary for the proper vehicular circulation of the area. Streets connecting to streets in an adjoining subdivision shall be of equal width in right of way and in street section.
9. Temporary Dead End Streets: On streets, which are stub end streets designed to provide future connection with adjoining unsubdivided areas, there shall be provided a temporary turnaround at the stub end or a temporary connection to another street if required by the City Engineer. If such a provision is required, the design for such stub end or connecting street shall be approved by the City Engineer.

10. MU Zone District Vehicle Connection Requirements: Streets in an MU zone district shall be designed and located to comply with the vehicle connectivity requirements in section [7.3.719](#) of this chapter.

C. Private Streets:

1. Required: A private street or right of way shall be required to be provided by a property owner when any one of the following conditions is applicable:

a. The site, layout of the site, density of units or structures, or other circumstance adversely affects the ability of the municipality or other governmental entity to adequately provide service or effectively maintain an adequate level of service to the site; or

b. The intent and purpose of this section, that is, to promote the general health, safety, convenience and welfare of the citizens, would be adversely affected; or

c. Any applicable ordinance, regulation, rule or policy concerning the standards of design or construction for a public street is not met.

2. Design And Location: The location and design of a private street or right of way shall be subject to the review and approval of Traffic Engineering and the Fire Department.

3. Designation: The designation of a private street or right of way shall be subject to the requirements of this part.

4. Street Name Signs: It is the responsibility of the property owner(s) or an authorized agency on behalf of the owner(s) to erect and forever maintain permanent signs that shall identify the name of each private street or right of way. Such a sign shall be of a brown background with white reflective lettering and shall, in every other respect, conform to the specifications of the "Manual On Uniform Traffic Control Devices". Such a sign shall be erected no later than that point in time when the occupancy of one-half (1/2) of the units on the block face has occurred. Failure to erect said sign shall result in disapproval of final inspection, refusal to issue a certificate of occupancy, revocation of certificate of occupancy or other action authorized in section [1.1.201](#), "General Penalty", of this Code, as amended. The property owner(s) or an authorized agency on his/their behalf, upon notification of noncompliance and subsequently failing to meet or cause to be met all applicable requirements shall be responsible for any and all expenses incurred on the part of the City of Colorado Springs or any authorized agent in the enforcement of and compliance with this section.

D. Street Names:

1. Approval: All street names, both public and private, shall be subject to the approval of the Community Development Department, Traffic Engineering, Colorado Springs Police Department Enhanced 911 Database Coordinator, Fire Department and the Building Official. For purposes of this part, the official street name list to be used in the review of street names shall be that list commonly known as the master street address guide maintained by the El Paso/Teller County Enhanced 911 Authority Board (911).

2. Street Name Regulations: The following regulations shall apply to all newly platted or renamed streets:

- a. Address Assignment: Numeric address assignment shall be subject to the approval of the Building Official as required by section RBC312 (enumeration code) of the Building Code.
  - b. Street Names: All street names shall be established by the use of common English spelling.
  - c. Directional Entries: No directional entries shall be allowed as part of a street name, for example, but not by way of limitation, Northpointe Drive.
  - d. Residential Street Names: Residential street names shall be limited to a maximum of fourteen (14) letters, not including the street name designation. Two (2) word street names shall be acceptable.
  - e. Duplicate Street Names: Duplicate street names shall not be approved regardless of the street designation, for example, but not by way of limitation, Chelton Road, Chelton Loop, Chelton Circle.
  - f. Street Names Similar To Other Streets: Street names that closely approximate the spelling or phonetically sound similar to a platted street in the El Paso County - Teller County 911 service area shall not be approved.
  - g. Numeric Spelling In Street Names: The use of street names containing numeric spelling is prohibited, for example, but not by way of limitation, Two Branch Lane or Six Pack Avenue.
  - h. Exceptions: Exceptions to the street name regulations may be allowed in accord with part 13, "Subdivision Waivers", of this article if recommended for approval by the reviewing departments and agencies listed in subsection D1 of this section.
3. Continuity Of Names: Any street which is a continuation or a logical approximate extension of an existing dedicated street, a platted street, a deeded street, a proposed street as shown on an approved master plan or approved development plan or a street on the City of Colorado Springs major thoroughfare plan shall bear the same street name unless the continuation is to be designated as a private street. A street designator is not to be used as part of the street name (i.e., Aspenway Drive).
  4. Small Cul-De-Sacs: Small cul-de-sacs which have less than five (5) interior lots shall bear the name of the intersecting street and the property shall be sequentially numerically addressed from the block series of the intersecting street.
  5. Public Street Name Designation: Street type abbreviation shall follow the National Emergency Number Association (NENA) standards. Street name designations shall be as defined by Traffic Engineering and used as follows:
    - a. Boulevard or parkway: Shall be reserved for streets designated on the major thoroughfare plan which are planned to have a median divider of sufficient size to allow for landscaping.
    - b. Avenue or road: Shall be reserved for streets of substantial continuity such as major or minor arterials of the major thoroughfare plan.
    - c. Street or drive: Shall be reserved for streets of less continuity such as collector streets.
    - d. Court, place, circle, way, terrace, lane, loop, trail or path: Shall be reserved for streets with no continuity.



6. Private Street Name Designations: Any private street or right of way shall be designated as follows: Grove, Heights, Point or View.

7. Street Name Changes: All applications for street name changes, for both public and private streets, or rights of way, shall be submitted to the Community Development Department in accord with the requirements of the Community Development Department and are subject to the jurisdiction of the Planning Commission.

In reviewing an application for a street name change, the Planning Commission shall grant the street name change only upon determination that all of the following criteria are met:

- a. No Adverse Impact: That the efficient, timely and convenient delivery of services and goods, public and private, to the people and their property will not be adversely affected.
- b. Requirements Of This Section: That the requirements of this section have been met.
- c. Purpose Of Part: That the street name change comes within the purpose of this part, that is, to promote the health, safety, convenience and general welfare of the citizens.

An application for a street name change for a street that crosses jurisdictional boundaries shall require approval of all entities involved prior to the street name change becoming effective.

8. Temporary Posting Of Public Or Private Street Name Required: In order to ensure the timely and effective delivery of public services, including, but not limited to, emergency assistance, utilities provision and required inspections, it shall be the responsibility of the subdivider, his duly authorized agent or other subsequent property owner(s) to ensure the temporary posting of street names in subdivisions or areas of the City where new construction of building(s) is occurring. Such temporary posting of a street name shall occur within a forty eight (48) hour time period following the issuance of the first building permit to allow construction in a block face. Such a street name sign shall be of any material that is weather resistant, shall be lettered to be legible and weather resistant, shall be placed in a location that is convenient and visible and at the appropriate intersection, and shall be maintained until a permanent sign is installed.

9. Temporary Access: Temporary access to any property shall not be construed as a guarantee of continued usage of any numeric address and/or street name, which may have been assigned at time of approval of temporary access.

E. Installation Of Curbs, Sidewalks And Pedestrian Curb Ramps: The following standards shall apply to the installation of curbs, sidewalks, pedestrian walkways, and pedestrian curb ramps.

1. Curbs:

a. Type Of Curb: Curbs and gutters shall be required on all City streets unless topographic or design considerations warrant special consideration for a waiver, which may be granted by the City Engineer. Should the City Engineer deny a request for waiver, his decision may be appealed to the Planning Commission and City Council in the same manner as a request for a waiver for the installation of public improvements as set forth in part 13 of this article.

Ramp curb may be used on residential streets when drainage considerations warrant its use subject to the approval of the City Engineer. Ramp curb shall not be approved abutting multi-family residential, commercial, industrial, parks or school uses.

- b. Curb Radius: Curb radius shall be as prescribed in the public works design manual and the subdivision policy manual.
2. Sidewalk And Pedestrian Walkway Requirements: Sidewalks shall be required on both sides of all City streets. Any request not to install sidewalks along City streets shall be processed in accord with part 13 of this article. Sidewalk requirements are as follows:
- a. All sidewalks and pedestrian walkways required shall be installed at or before the time of issuance of the certificate of occupancy. The certificate of occupancy will be withheld until all sidewalks are completed.
  - b. If the sidewalks or pedestrian walkways have not been installed at the time of issuance of the certificate of occupancy by the City due to inclement weather or another reasonable delay approved by the City Engineer, then an acceptable financial assurance shall be placed on file with the City Engineer prior to final inspection and issuance of the certificate of occupancy. The City will release assurances upon inspection and acceptance.
  - c. In PUD zoned residential developments, sidewalks will be installed per the PUD development plan. At a minimum, however, sidewalks shall be required along both sides of all arterial and collector streets.
  - d. In residential developments with a net density of two (2) dwelling units per acre or less, sidewalks are required on at least one side of every street. At a minimum, however, sidewalks shall be required along both sides of all arterial and collector streets.
  - e. Sidewalks shall be required adjacent to developed parks.
  - f. Sidewalks shall be constructed in accord with Public Works design manual specifications. The City Engineer may modify requirements for sidewalks. If the applicant disagrees with the City Engineer's modifications, the applicant may request a waiver of design standards in accord with part 13 of this article.
3. Pedestrian Curb Ramp Requirements: All new development requiring sidewalks shall provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons. Pedestrian curb ramps shall be constructed at all pedestrian crosswalks at all intersections in conjunction with the construction of the new street, or if street curbs exist, the curb (curb and gutter) shall be removed and a ramp installed. Pedestrian ramps are also required where public sidewalks cross driveways with curbs.

Certain limiting conditions or safety concerns such as physical constraints, steep grades, drainage problems with a potential for property damage or undesirable crosswalk locations, as determined by the City Engineer, may necessitate the exclusion of a pedestrian ramp. Where such conditions exist, the City Engineer may grant a waiver for such locations after written request is received detailing the request and appropriate limiting conditions or problems. Should the City Engineer deny the waiver request, the decision may be appealed to the City Planning Commission and City Council as provided in part 13 of this article. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 03-16; Ord. 03-157; Ord. 05-135; Ord. 07-86; Ord. 09-80; Ord. 12-75)

### **7.7.705: RIGHT OF WAY DEDICATION AND STREET IMPROVEMENTS:**

A. Minor Streets: The subdivider seeking approval for a subdivision containing a final plat shall agree as a condition of approval to construct and dedicate all minor streets as shown on the final plat.

B. Major Streets: The subdivider seeking approval for a subdivision containing a final plat shall agree as a condition of approval to construct and dedicate all major streets shown on the final plat. Such construction and dedication of major streets may be the subject of partial reimbursement by the City as set forth below.

C. Construction Of Public Improvements And Cost Recovery:

1. Public Improvements: A subdivider seeking preliminary/final plat or final plat approval or a developer or redeveloper of property may be required by any governmental entity as a condition of said subdivision or development or redevelopment of the property to make improvements to streets or pedestrian and bicycle access facilities, either adjacent to, or abutting on, or outside the land development to carry traffic generated by the development, which improvements shall include, but not be limited to, constructing or otherwise improving streets, dedicating additional rights of way, widening, constructing curb and gutter, installing a median, installing sidewalks, installing acceleration or deceleration lanes (an "improvement").
2. Eligibility For Reimbursement: Whenever such improvements are made by a subdivider, developer or redeveloper of land (hereafter, collectively referred to as a "developer") the developer is entitled to fair share reimbursement of the cost of the improvements less any City reimbursement from the owner or owners whose property is subdivided, developed, or redeveloped within twenty five (25) years after acceptance of the improvements by the City. The date of acceptance of the improvement will be the date of final inspection by City Engineering. However, if a developer has not requested such a final inspection by the City within thirty (30) months after completion of the improvements there will be no recovery right for the improvement involved.
3. Processing Cost Recovery Agreements: A developer wishing to avail itself of the provisions of this section shall file a cost recovery statement with City Engineering not later than twelve (12) months after the date the improvement was accepted. Such statement shall be accompanied by copies of paid receipts or other satisfactory evidence of payment of the costs claimed for the improvement. City Engineering will then review the cost recovery statement for reasonableness and appropriateness of the costs claimed, and may request backup for any such costs. City Engineering may make such adjustments as it determines are necessary if the costs are in excess of reasonable and necessary costs at then prevailing rates. If City Engineering does not notify the party submitting the cost recovery statement in writing of any adjustments to the costs listed in the statement within thirty (30) days after the statement was submitted (or, if backup documentation is requested within 30 days, within 30 days after the requested backup documentation is submitted), then the costs in the statement will be deemed approved as submitted. The developer will be responsible for notifying all property owners who will be affected by the cost recovery agreement by certified mail that a cost recovery statement, which may affect their property, has been submitted to City Engineering.

City Engineering will assist the developer in determining the property owners to be notified and in obtaining the names and addresses of such properties. When the costs subject to reimbursement have been approved as provided above and City Engineering has been provided proof that the certified mail notices have been sent to affected property owners, the City and the developer shall then execute a cost recovery agreement on the standard form approved by the City (the "cost recovery agreement"). After execution, the cost recovery agreement shall be recorded with the El Paso County Clerk and Recorder by City Engineering. The developer will pay all costs of recording.

4. **Repayment Of Costs:** During the cost recovery period, an application for a plat or building permit from owners whose property abuts the improvements shall not be approved until a fair share reimbursement for the cost of the improvements has been made to the original developer. City Engineering will not approve any such plat if it leaves unplatted strips along the roadway subject to reimbursement, fails to plat portions of such owner's property which are reasonably necessary for effective utilization of the property being platted, or is otherwise configured so as to avoid the reasonable fair share payment by such owner under this article. All liability for improvement costs shall be limited to twenty five (25) years after acceptance of the improvements by the City. A signed notarized copy by the original developer and subsequent developer for the release of the cost recovery agreement shall be submitted to City Engineering and shall state that payment has been made in full and that all parties agree to the release of the cost recovery agreement from the property involved. The release shall be recorded with the El Paso County Clerk and Recorder by City Engineering. The cost of recording shall be charged to the owner of the property being released. During the cost recovery period, approval of plats or building permits for the land abutting the improvements shall be conditioned upon payment of the fair share of the improvement cost as determined by City Engineering, if City Engineering determines that such improvements would have been required to be installed by the subsequent developer. All liability for improvement costs shall be limited to a period of twenty five (25) years after acceptance of the improvements by the City. City Engineering shall determine the fair share reimbursements on a front foot basis. On January 1 of the year following acceptance of the improvements by the City and each year thereafter on January 1, the reimbursement amount shall be increased by ten percent (10%) simple interest.
5. **Address For Payments, Unclaimed Payments:** It is the responsibility of the developer to notify City Engineering in writing of any changes in address for notices and payments under this article. If City Engineering mails a notice of reimbursement, specifying the amount of reimbursement and the property involved a "reimbursement notice" to the developer by certified mail using such developer's most recent address in City Engineering's files, and no response is received within thirty (30) days, then City Engineering shall be authorized to execute on behalf of such developer and record a release of the cost recovery agreement from the property paying the reimbursement. If the reimbursement involved is not claimed by the developer within twelve (12) months following mailing of the reimbursement notice, then the reimbursement involved will be paid to the City's General Fund, and the developer will forfeit all rights to it.
6. **Extension Of Recovery Period:** The City recognizes that requiring a developer to make improvements as described in subsection C1 of this section imposes on such party additional costs for improvements, which benefit the adjacent property owners. It is the City's policy to provide the developer a reasonable opportunity to recover the fair share of such costs from the property benefited and not to allow the property being benefited an unfair windfall by merely delaying development until expiration of the recovery period. The City had initially set a fifteen (15) year recovery period, but experience has now shown a significant number of existing recovery agreements will soon expire without the developer being able to recover a fair share of the additional costs they were required to expend on improvements for the benefit of adjacent lands. Thus, in order to assure the City's policy of requiring all properties to pay their fair share of improvements, the City hereby extends the recovery period on all existing cost recovery agreements to twenty five (25) years after the date the improvements involved were accepted by the City.
7. **Improvements Already In Place:** If the improvements are already in place, and if City Engineering determines that such improvements would have been required to be installed by any developer abutting the improvements, as a condition of development, the developer may be required as a condition of approval of development to pay to the City a fair share, as determined on a front foot basis of the original costs of the improvements, subject to ten percent (10%) simple interest factor each year and subject to the twenty five (25) year limitation, if no cost recovery agreement is in effect or a cost recovery agreement is invalid for any reason.

8. Existing Agreements: The provisions of this article shall apply to all cost recovery agreements in effect on June 1, 1995, and thereafter. City Engineering is authorized to record any cost recovery agreements not previously recorded with the El Paso County Clerk and Recorder. City Engineering is also authorized to cooperate with developers who have existing cost recovery agreements on file to implement a system for indexing such agreements and notifying affected property owners of such agreements.

D. Cost Recovery By The City And Other Governmental Entities: Nothing in this section is intended to preclude or prohibit the City or another governmental entity from entering into and being a party to cost recovery agreements with landowners for public roadway improvements. In these types of cost recovery agreements, interest may not be charged on the costs of the installed or constructed public roadway improvements. (Ord. 96-44; Ord. 01-42; Ord. 03-157; Ord. 07-85; Ord. 11-17; Ord. 18-43)

### **7.7.706: REIMBURSEMENTS:**

A. Costs Subject To Reimbursement:

1. As to a right-of-way for a major street, the fair market value of that portion of the right-of-way in excess of sixty feet (60') in width shall be a cost subject to reimbursement, and
2. The actual costs of construction of the major street less the actual costs of:
  - a. Grading the entire width of the major street,
  - b. The installation of thirty six feet (36') in width of pavement mat and base course,
  - c. The installation of drainage structures<sup>1</sup>,
  - d. The installation of sidewalks, and
  - e. The installation of curb and gutter on each side of the full pavement mat,
  - f. Any treatment given to the area between median curbs,
  - g. The construction of any turn lanes serving other private property.

B. Reimbursement: Commencing January 1, 1988, the City shall reimburse from funds specifically appropriated for such purpose subdividers who complete construction of major streets or portions thereof. Such major streets must be shown on the City's major traffic thoroughfare plan. Reimbursement of the costs subject to reimbursement shall be made after the City Engineer finds and determines on the basis of actual use and community benefit that the major street or portion thereof is meeting a community need. The City Engineer shall articulate standards to determine when a subdivider who constructs a major street or portion thereof is entitled to costs subject to reimbursement.

The Council may set aside specifically designated funds for the purpose of reimbursing a subdivider costs subject to reimbursement for a major street or street portion thereof that the City

Council desires be constructed. This reimbursement shall not be subject to the City Engineer standards for reimbursement.

C. Conditions Of Reimbursement:

1. The City shall reimburse only those persons or entities that own the major street right-of-way when dedicated and only those persons or entities that paid for the actual costs of construction or both, or those persons or entities who have valid assignments for such reimbursements.
2. The major street must be constructed in accord with plans approved by the City Engineer and finally accepted for maintenance by the City by the City Engineer.

D. Fair Market Value: The fair market value of the right-of-way dedicated to the City shall be determined as of the time of final plat recording in accord with the following:

1. The City and the owner may agree as to the fair market value; or
2. The City and the owner may apply to a court of competent jurisdiction for determination of just compensation as provided for in article 1 of title 38 of the Colorado Revised Statutes as such may exist or be hereinafter amended. (Ord. 96-44; Ord. 01-42)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): Major street bridges shall be treated separate and apart from this section. Part 10 of this article covers the construction reimbursements for major street bridges.

## **PART 8 REQUIRED IMPROVEMENTS**

**[7.7.801: INSTALLATION AND COMPLETION OF IMPROVEMENTS:](#)**

**[7.7.802: ACTUAL CONSTRUCTION OF IMPROVEMENTS:](#)**

**[7.7.803: ACCEPTANCE OF IMPROVEMENTS:](#)**

**[7.7.804: INSTALLATION OF SEPTIC TANKS:](#)**

**[7.7.805: UNDERGROUNDING OF UTILITIES:](#)**

**[7.7.806: IMPROVEMENT PLANS:](#)**

**7.7.801: INSTALLATION AND COMPLETION OF IMPROVEMENTS:**  

The improvements required below shall be constructed and installed by the subdivider or provisions made therefor, prior to the final approval of the subdivision and the final plat thereof. In lieu of the completion of such improvements, the subdivider may provide acceptable assurance to secure to the City the actual construction of the improvements within such period as shall be determined by the City Engineer or the Utilities Executive Director. Said assurance shall be in an amount adequate to cover the cost of the improvements as determined by the City Engineer or the Utilities Executive

Director. The assurance and all conditions thereof must meet the satisfaction of the City Council. The following improvements shall be provided by the subdivider:

- A. Permanent Survey Monuments, Range Points And Lot Pins: As required by State law.
  
- B. Time Delay For Installation Of Public Improvements: Subdividers who desire to delay the installation of public improvements required by this section shall submit to the City Engineer on such forms as provided by said City Engineer their requests for a time delay of the installation of public improvements. The City Engineer shall review and either approve or disapprove the request. If the request is approved, the City Engineer shall require the subdivider to execute an agreement for the delay of installation of public improvements, and such agreement shall be recorded. Should the City Engineer deny the subdivider's request for a time delay in the installation of public improvements, the subdivider may appeal the decision of the City Engineer to the Planning Commission and City Council in the same manner as a request for a waiver for the installation of public improvements as set forth in part 13 of this article. The Planning Commission and City Council shall treat such appeal as a request for action on a request for time delay for the installation of public improvements not as a request for a waiver for the installations of public improvements.
  
- C. Water, Wastewater Lines And Fire Hydrants: The subdivider shall pay for the installation and construction of all the required water lines, sewer lines and fire hydrants in compliance with this Code and the regulations of the Utilities Department relating to the installation and extension of water and wastewater lines. The sections of this Code regulating the installation and extension of water and wastewater lines are as follows:
  - 1. Wastewater, Water Lines, When May Be Laid: [Chapter 12, article 5](#) of this Code.
  - 2. Wastewater Permits And Connection Charges: [Chapter 12, article 5](#) of this Code.
  - 3. Taps, Service Lines And Use Of Water: [Chapter 12, article 4](#) of this Code.
  - 4. Storm Drainage Improvements: As required under part 9 of this article.
  
- D. Right Of Way Stabilization: Stabilization of land within the right of way of any street or road is required to the extent deemed necessary by the City Engineer and consistent with any requirements of the zoning regulations. Prior to the final acceptance of any improvements within the right of way, the City Engineer shall be satisfied that no existing or potential erosion problems exist within the right of way or on land adjacent to such right of way which could affect the stability of the right of way. The subdivider shall guarantee such right of way stabilization for a period of one year from the date of final acceptance. The City Engineer shall require acceptable assurance for ten percent (10%) of the cost of the work as part of such guarantee. Continued maintenance of the area shall be the responsibility of the owners of the property adjacent to the right of way.
  
- E. Streetlights: The subdivider shall pay for costs associated with the installation and construction of all necessary streetlights in accord with Utilities' regulations and in compliance with this Code regarding the installation of streetlights. (Ord. 96-44; Ord. 98-173; Ord. 98-185; Ord. 01-42; Ord. 02-187)

### **7.7.802: ACTUAL CONSTRUCTION OF IMPROVEMENTS:**

No construction of subdivision improvements shall be started until the improvement plan for the entire area covered by the final plat has been approved by the City Engineer. After the improvement plans have been filed, and the approval of the City Engineer and the Utilities Executive Director have been obtained, the subdivider shall construct the required improvements subject to obtaining the required permits from the City Engineer and Utilities for wastewater and water systems. (Ord. 96-44; Ord. 98-185; Ord. 01-42)

### **7.7.803: ACCEPTANCE OF IMPROVEMENTS:**

All required subdivision improvements, as specified in this part and other applicable City ordinances and regulations, shall be fully constructed by the subdivider and approved by the City Engineer and Utilities Executive Director, and a written notice of approval shall be transmitted to the subdivider. The approval of the improvements by the City shall be contingent upon the subdivider guaranteeing and being responsible for any defects of the improvements for a two (2) year period after acceptance by the City, which acceptance shall be in writing. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 01-153)

### **7.7.804: INSTALLATION OF SEPTIC TANKS:**

In areas where public wastewater systems are not accessible, individual wastewater disposal systems may be installed only after the approval of the Utilities Executive Director or his assigned designee in accord with this section. (Ord. 96-44; Ord. 98-173; Ord. 01-42)

### **7.7.805: UNDERGROUNDING OF UTILITIES:**

Telephone lines, electric lines up to 30,000 volts and other like utility services shall be placed underground unless waived by the City Council after consideration by the Planning Commission. Transformer, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities may be placed aboveground. The provisions of this section shall not apply to existing facilities or to any preliminary, preliminary and final or final plat which has been approved by the Planning Commission prior to the adoption of this section. (Ord. 96-44; Ord. 01-42)

### **7.7.806: IMPROVEMENT PLANS:**

A. City Engineer: The subdivider shall submit to the City Engineer for his approval the following documents prior to construction:

1. Final Plans And Profiles Of All Streets And Alleys: Profiles shall be drawn to a scale of fifty feet (50') horizontal and five feet (5') vertical of streets and alleys and must meet the approval of the City Engineer. Sheets shall be twenty four inches by thirty six inches (24" x 36"), one street per sheet, and said street should include on the right hand side a typical street cross section specification in accord with standards approved by the City Engineer.
2. For All Areas Where Final Graded Slope Will Be Ten Percent Or Greater: Plans on a scale of one inch (1") to fifty feet (50') with a contour interval of two feet (2') shall be submitted indicating clearly all cut and fill areas. Existing contours and finished grade contours shall each be shown. Such plans shall be submitted for any land designated a hillside area on the zoning maps of the City.



B. Utilities: The subdivider shall submit to the Utilities Executive Director for his approval the following documents prior to construction:

1. Water Distribution System: Four (4) copies of the water distribution system for the entire subdivision area, said plan to include all information required by the Utilities Executive Director. Said system shall be of efficient design and of a capacity, both on site and off site facilities, to furnish adequate water supply required to serve each lot in the development and for adequate fire protection to the area, as determined by the Department of Utilities and the City Fire Department.
2. Wastewater System: Three (3) copies of the wastewater plan for the entire subdivision area, said plan to include all information required by the Utilities Executive Director. Said wastewater system shall be of efficient design and of a capacity, both on site and off site facilities, to furnish adequate connections required to serve each lot in the development. (Ord. 96-44; Ord. 98-185; Ord. 01-42)

## **PART 9 SUBDIVISION DRAINAGE FACILITIES**

**7.7.901: PURPOSE:**

**7.7.902: STUDIES OF DRAINAGE BASINS:**

**7.7.903: BOUNDARIES DELINEATED:**

**7.7.904: EXCLUSIONS AND EXEMPTIONS:**

**7.7.905: ANNEXED LANDS:**

**7.7.906: SUBDIVIDER TO PREPARE DRAINAGE REPORTS AND DETAILED DRAINAGE PLANS:**

**7.7.907: CREDIT FOR FACILITIES:**

**7.7.908: CITY RESPONSIBLE FOR ACCEPTED FACILITIES:**

**7.7.909: COOPERATION WITH SUBDIVIDERS:**

**7.7.910: SUBDIVISION STORM DRAINAGE BOARD:**

**7.7.911: ALLOCATION OF INTEREST EARNED:**

**7.7.912: APPLICABILITY OF PROVISIONS:**

**7.7.901: PURPOSE:**  

A. The City Council hereby finds, determines and declares the urgent necessity of providing storm drains and other facilities for the drainage and control of flood and surface waters including facilities or best management practices (BMPs) to control stormwater quality within areas and territories to be subdivided and developed and the City Council further finds and declares that the facilities are required for the proper and orderly development of the areas and territories in order that storm and surface waters may be properly drained and controlled along with stormwater quality and that the health, property, safety and welfare of the City and its citizens may be safeguarded and protected.

B. The City Council further finds, determines and declares that it is necessary under all the attendant circumstances that the owner and developer of the subdivision shall provide the drainage facilities within his subdivision necessary for the drainage and control of surface water within his

subdivision and also to provide the facilities required to convey such drainage waters to such outflow or discharge point as shall be indicated in the master drainage plan for the drainage basin and area within which the subdivision is located. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.902: STUDIES OF DRAINAGE BASINS:**

The Mayor or the County Commissioners, as appropriate, shall cause to be made new or updated engineering studies of drainage basins in their respective jurisdictions. The studies, known as drainage basin planning studies (DBPS), are to be authorized as finances become available. If public funds are not available and land development in a specific drainage basin is causing the need for a new or updated DBPS, a specific land developer(s) may be required to finance a new or updated study, subject to conditions and requirements of the City Engineer. The land developer(s) will be eligible for credit for the cost of the studies in accord with the provisions of section [7.7.907](#) of this part. These studies and investigations shall show the conduits, channels, natural drainage courses, sometimes called "greenbelts", detention/retention basins, easements, culverts and all other facilities which are required to provide for the drainage and stormwater quality control of surface waters within the basins and to carry such waters to designated points of outflow or discharge. The studies shall include an estimate of the cost of providing the drainage facilities, the computation of the costs to include the expense of the studies. The estimated cost per acre of providing the facilities shall be determined within each drainage basin by dividing the number of acres within the drainage basin into the total cost as provided. Large open public park areas shall not be included in total area. The City Council or the Board of County Commissioners as recommended by the Storm Drainage Board, in this case, shall determine City and County participation. This per acre cost shall be known as the unit drainage fee.

If it is in the best interest of the drainage basin, as determined by the DBPS and approved by the Storm Drainage Board, a detention reservoir land fee may be established for that basin. The basin studies incorporating land fees will show all required acreage necessary for the public detention ponds. The estimated cost per acre of providing land for the public detention reservoirs shall be determined within each basin by dividing the number of unplatted acres within the drainage basin into the total drainage credit value of the land. Large, open public park areas shall not be included in this total. This per acre fee shall be known as the unit detention reservoir land fee, and shall be deposited in the same subfund as the unit drainage fees.

The initial value of the unit detention reservoir land fee shall be the City of Colorado Springs' park land dedication fee in effect at the time of approval of the DBPS by the City/County Drainage Board. Prior to January 1 of each year, the unit detention reservoir land fee is intended to be raised or lowered by the same percentage as the City of Colorado Springs' park land dedication fee.

Prior to January 1 of each year the unit drainage fee and the unit detention reservoir land fee shall be reviewed by the Drainage Board who shall make a recommendation to the City Council as to any adjustment to the fees. Upon such recommendation the City Council shall establish by resolution the unit drainage fee and the unit detention reservoir land fee in each drainage basin to be effective January 1 of each year. Said fees will be reestablished in accord with changes in construction and other costs or revisions suggested by additional studies or other information obtained. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44; Ord. 11-19)

### **7.7.903: BOUNDARIES DELINEATED:**

As soon as possible after the adoption of this part, the boundaries of the drainage basins mentioned in this part will be delineated upon a map or maps. There will also be shown upon said map or maps

the areas in said basins which have been platted, subdivided or developed into business or residential areas and those areas therein which are presently unimproved. Such additional information or data as may be determined to be desirable by the City Engineer may be shown upon said map or maps. When approved by the Council, these maps shall serve as official designations of the respective drainage basins concerned in this part, but the maps shall be subject to revision from time to time to conform with existing conditions. (Ord. 96-44; Ord. 01-42)

#### **7.7.904: EXCLUSIONS AND EXEMPTIONS:**

- A. There are excluded and exempted from the provisions of this part those territories which have been presently subdivided and the final plats of which have been approved by the Council or the Board of County Commissioners of the County of El Paso on or before April 28, 1964; provided, however, that those areas and territories which have been annexed to the City upon the conditions and understanding that said lands would be subject to the provisions of a drainage control ordinance and the payment of drainage fees, whether or not the plats therefor have been approved, shall be subject to the provisions of this part; provided, further however, that where there are developed and undeveloped areas within the same basin resulting in some of the areas being excluded from the requirements of this part, and the drainage program of the undeveloped territory involves and is interrelated with the developed areas, the City shall pay the costs of that part and capacity of the drainage facilities required to transport stormwater runoff from the developed areas, through the undeveloped area to the point of discharge, or create an improvement district or districts for such purpose, where legally permissible.
- B. The City Engineer shall maintain a file listing the specific areas and territories which are tributary to specific drainage basins and have been exempted and excluded from the provisions of this part. This file shall be available to the public for review and inspection. (Ord. 96-44; Ord. 01-42; Ord. 08-44; Ord. 09-80)

#### **7.7.905: ANNEXED LANDS:**

The owner or owners of lands which have been annexed to the City upon the condition and understanding that said lands would be subject to the provisions of a drainage control ordinance and the payment of drainage fees, whether or not the plats for said lands have been approved, and the owners of lands presently or hereafter annexing the same to the City shall prior to final publication of the annexing ordinance agree in writing with the City that the lands are subject to and they will comply with the provisions of this part, including the payment of fees hereunder. The said owner or owners shall further agree in writing that the required fees shall be paid prior to the final approval of the plat or other plan for or release of land for development and that the drainage facilities will be installed within and in connection with the subdivision of the land as required in this part. (Ord. 96-44; Ord. 01-42)

#### **7.7.906: SUBDIVIDER TO PREPARE DRAINAGE REPORTS AND DETAILED DRAINAGE PLANS:**

- A. Preparation And Components Of Drainage Reports And Plans: Prior to final approval of the plat of a subdivision, or part for which final approval is requested, the subdivider shall, at subdivider's expense, prepare a drainage report which shall show the channels, conduits, detention/retention basins, culverts, bridges, easements and all other drainage facilities for the control and drainage of surface water including the control of stormwater quality within the subdivision, or the part to be approved, and the carriage of water to a safe discharge or outflow point, all in conformity with the Drainage Basin Planning Study (DBPS) as approved by the City, together with the estimated

cost of constructing these facilities. After final approval of the plat of a subdivision and prior to the issuance of any building permits within the subdivision, the subdivider shall, at the subdivider's expense, prepare detailed plans and specifications for the construction and installation of channels, conduits, detention/retention basins, culverts, bridges, and easements and all other drainage facilities for the control and drainage of surface water including the control of stormwater quality within the subdivision, or the part to be approved, and the carriage of water to a safe discharge or outflow point, all in conformity with the DBPS as approved by the City.

B. Stormwater Quality Requirements For New Development And Significant Redevelopment: All stormwater quality requirements, including best management practices (BMPs), policies and procedures must be complied with as outlined in the "Drainage Criteria Manual, Volume II: Stormwater Quality Policies, Procedures And Best Management Practices". Permanent stormwater quality BMPs are required for all "new development and significant redevelopment", which is defined as follows:

1. All sites zoned R-4 (multi-family residential), R-5 (multi-family residential), PUD (planned unit development), SU (special use), OR (office residential), OC (office complex), PBC (planned business center), C-5 (intermediate business), C-6 (general business), PIP-1 (planned industrial park), PIP-2 (planned industrial park), M-1 (light industrial), M-2 (heavy industrial), PF (public facilities), APD (airport planned development) and PCR (planned cultural resort) that include total development/redevelopment areas of one acre or larger. Water quality capture volume (WQCV), as detailed in the manual, shall be provided for the total site or individual lots/parcels. Other permanent BMPs may also be required as appropriate.
2. All sites in any zone that include total development/redevelopment areas of one acre or larger for which stormwater quality detention is required, as specified in the approved final drainage report. WQCV shall be incorporated into stormwater quantity detention basins as detailed in the manual. Other permanent BMPs may also be required as appropriate.
3. All sites zoned R estate (residential), R-1 6000 (single-family residential), R-1 9000 (single-family residential), R-2 (two-family residential) and DFOZ (design flexibility overlay - base zone must be R, R-1 6000 or R-1 9000) that include total development/redevelopment areas of two (2) acres or larger will be reviewed on a case by case basis that will include an assessment of impacts from stormwater runoff from the new development/redevelopment to State waters and a determination of the need for any additional permanent water quality BMPs. Sites for which City Engineering determines water quality impacts to State waters are minimal and permanent water quality BMPs are impractical will be granted a waiver, based on the submittal of sufficient justification. Written waiver requests from requiring permanent stormwater quality BMPs will be considered by the City Engineer.
4. All other sites that do not meet the above requirements may be required to provide permanent stormwater quality BMPs, if significant stormwater quality impacts are anticipated as a result of development/redevelopment of the site, as determined by the City Engineer.

The intent of permanent water quality BMPs is that they be placed prior to the stormwater runoff being discharged to State waters. However, downstream BMPs (such as detention ponds or improved channels) may also be acceptable if there are minimal impacts to State waters between the downstream BMP and the area of new development/redevelopment. With increased impacts, other permanent BMPs may also be required on or adjacent to the site or in combination with new/retrofitted downstream BMPs. When determining the need for permanent water quality BMPs, consideration will be given to, but not limited to, the following: overall assessment of water quality impacts/benefits (including looking at the intervening reach between any downstream BMP and the

development site), other BMPs incorporated into the overall site, costs and long term maintenance viability.

Whenever practical, the City of Colorado Springs promotes permanent stormwater quality BMPs on all sites.

C. Submittal And Signature Requirements: All drainage reports and detailed plans and specifications shall be submitted to the City Engineer. All drainage reports, detailed plans and specifications shall bear the seal of a registered professional engineer of the State of Colorado and a statement signed by the engineer that such drainage reports and detailed plans and specifications have been prepared according to the criteria established by the City for drainage reports and detailed plans and specifications and that such drainage reports and detailed plans and specifications are in conformity with the DBPS for the drainage basin; that such drainage reports and detailed plans and specifications meet the purposes for which the particular drainage facility is designed; and that the engineer accepts responsibility for any liability caused by the negligent acts, errors or omissions of the engineer in preparing the detailed plans and specifications.

D. Assurance Required: Upon submission of the drainage report, the plat or portion involved may be finally approved subject to acceptable assurance to the City that the facilities will be constructed and installed as indicated; provided, however, that assurance may, if desired, be furnished after final approval of a plat upon condition that the plat be not finally executed or recorded until assurance is furnished. If undue hardship would result to the subdivider by reason of the carriage of the water to the ultimate discharge or outflow point as shown on the DBPS, the Storm Drainage Board may designate another discharge or outflow point at which the water will be received by an open channel, or other minimum or substitute facility to carry the water. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.907: CREDIT FOR FACILITIES:**

A. Subdivider May Be Credited: Upon the completion and acceptance of the drainage facilities for a subdivision as required by this part, the unit drainage fees and unit detention reservoir land fees payable by the subdivider upon the land in the subdivision or that portion upon which final approval has been given and to which the facilities are applicable, will be computed and if the amount of the fees is less than the cost of providing the aforesaid facilities, the subdivider or, by written agreement approved by the City, any other party shall be entitled to a credit from the appropriate subfund of the basin involved of the subdivision storm drainage fund in an amount that the cost of providing the facilities exceeds the fees payable by the subdivider. If the final approval is applicable to only a portion of the subdivision or tract or tracts of land owned by the subdivider and located within the drainage basin, at the option of the subdivider, the credit for the cost of the facilities' installation in excess of the applicable fees for the portion approved may be applied upon and credited to the appropriate fees upon the balance of the subdivision or tract or tracts of land when owned by the subdivider, provided that said subdivider furnishes the Storm Drainage Board satisfactory evidence that the subdivider owns the subdivision or tract or tracts of land or has entered into a written contract to purchase the same, as of the date that application for the credit is made. The subdivider may determine to build drainage facilities as required by the DBPS prior to subdividing or otherwise developing land. In that event the fees applicable to the land proposed to be subdivided or otherwise developed may, with the approval of the City, be fixed at the time the subdivider contracts for the construction of the drainage facilities in accord with subsections B and C of this section.

B. Determination Of Credit For Drainage Facilities: The credit to which a subdivider shall be entitled from the appropriate subfund of the basin involved in the subdivision storm drainage fund, as set forth in subsection A of this section, shall be determined on the basis of the actual cost incurred in constructing the drainage facilities, plus ten percent (10%) for engineering expense. The subdivider shall be responsible for contracting for the construction of the drainage facilities after receiving at least three (3) sealed bids for construction of the drainage facilities. If the subdivider is unable to get at least three (3) sealed bids the City Engineer shall be responsible for determining that the bid or bids received are the lowest responsible bids. The decision of the City Engineer may be appealed to the Drainage Board. Bidders must be on the City's approved contractor list. The subdivider shall award the bid to the lowest responsible bidder within thirty (30) days after receiving the bids.

Should the bids exceed the estimate of the cost of constructing the drainage facilities as set forth in the approved drainage plan they shall be rejected unless the subdivider's engineer and the City Engineer or his designated representative determine that any bid exceeding the engineer's estimate is the lowest responsible bidder unless the subdivider declares his desire to accept a higher bid. If such is the case any credit shall be based on the lowest responsible bid. Any disputes pertaining to this section shall be referred to the Drainage Board for determination, and decisions of such Board may be appealed to the City Council as set forth in this part.

C. Determination Of Credit For Land Used For Public Detention Facilities: The credit to which a subdivider shall be entitled from the appropriate subfund of the basin involved in the subdivision storm drainage fund shall be determined on a per acre basis as set forth in the appropriate DBPS. The per acre land credit shall be equal to and limited by the applicable unit detention reservoir land fee in use at the time of the bid opening for the construction of the detention facilities by the subdivider. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

#### **7.7.908: CITY RESPONSIBLE FOR ACCEPTED FACILITIES:**

All drainage facilities and appurtenances constructed or provided under this part and designated by the City Engineer as public drainage facilities with public maintenance, shall upon written acceptance by the City become the property of the City and the City shall be responsible for the operation and maintenance of the facilities. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

#### **7.7.909: COOPERATION WITH SUBDIVIDERS:**

The City shall cooperate with and assist subdividers subject to the provisions of this part by exercising its power of eminent domain to obtain rights of way for drainage facilities, the adoption of ordinances and resolutions for the control of drainage channels and waters therein, and similar matters. The City's cost of condemning any drainage easements required pursuant to an approved drainage plan will be paid by the subdivider as the costs are incurred by the City and shall include all costs of condemnation including appraisal fees and court costs. The City may require letters of credit or other financial assurances in amounts it determines reasonable to assure payment prior to commencing condemnation. The subdivider is entitled to a fair share reimbursement of the cost of such drainage easements from owners abutting the drainage easement whose property is subdivided or developed within a period of fifteen (15) years after the drainage easement is obtained. Application for a plat or building permit by the abutting owner shall not be approved until a fair share reimbursement of the cost of the drainage easement shall have been made to the original subdivider. The City Engineer shall determine the fair share reimbursement, which shall be a pro rata share on a front foot basis unless otherwise determined by the City Engineer. All liability for

repayment of the drainage easement cost shall be limited to a period of fifteen (15) years after the drainage easement is obtained by the City. All monies so collected shall be refunded to the original subdivider who paid for the condemnation of the drainage easement involved. On January 1 of the year following the City's obtaining the drainage easement and on each year thereafter on January 1, the prior year's fair share reimbursement shall be increased by ten percent (10%). Payments by subdividers for drainage easements pursuant to this section shall not be a credit against applicable drainage fees nor shall repayment of any costs of acquiring drainage easements pursuant to this section be an obligation of the subdivision storm drainage fund of the basin involved. (Ord. 96-44; Ord. 01-42)

### **7.7.910: SUBDIVISION STORM DRAINAGE BOARD:**

A. Creation: Pursuant to the agreement between the City of Colorado Springs and the Board of County Commissioners of El Paso County dated November 22, 1983, there is hereby established a City/County Subdivision Storm Drainage Board. Said Board shall consist of seven (7) members who shall be appointed by the City Council and Board of County Commissioners. Appointments to the Board shall be made in such a manner as to achieve staggered three (3) year terms. The County Engineer and City Engineer shall be the secretaries of the Board without a vote. One member of the Board shall be a banker; one member shall be a land developer experienced in the subdivision and improvement of land; one member shall be a registered practicing engineer qualified in the subdivision and development of land; one member shall be a registered practicing engineer qualified in drainage matters incident to the subdivision and development of lands; one member shall be a person actively engaged in the construction and sale of housing; two (2) members shall be members at large residing in El Paso County.

In addition to the duties herein specifically granted, the Board shall advise the County Engineer and City Engineer and other City and County officials in carrying out the provisions of the City Subdivision Code and the County subdivision regulations relating to the drainage and control of flood and surface waters within the City and County; shall administer the subdivision storm drainage funds; and, shall recommend to the City Council and Board of County Commissioners changes to the City Subdivision Code and the County subdivision regulations relating to the drainage and control of flood and surface waters within the City and County.

B. Responsibilities: The Board shall be responsible for recommendations to the City Council and the Board of County Commissioners for:

1. Investment of surplus funds that may temporarily accumulate in the storm drainage funds;
2. For all repayments to be made from said fund;
3. Drainage fees shall be deposited to the City or County storm drainage fund; each jurisdiction shall maintain its own jurisdictional fund.

C. Appeals: The Board shall adopt bylaws and rules to provide for its officers and the time and conduct of its meetings. Decisions of the Board may be appealed to the City Council and Board of County Commissioners, and may be modified or reversed by the City Council for matters occurring within the jurisdiction of the City, or Board of County Commissioners for matters occurring within the jurisdiction of the County.

D. Drainage Basin Studies: The City and County agree that the Board shall recommend that studies be conducted for all drainage basins within the City and County on a periodic basis. All costs associated with said studies shall be divided between the City and County as recommended by the Board for City Council and Board of County Commissioners' approval.

E. Subdivision Regulations: The City and County agree that subdivision regulations adopted by the City and County for the drainage and control of flood and surface waters within the City and County shall be as nearly as is practicably possible the same. (Ord. 96-44; Ord. 01-42)

### **7.7.911: ALLOCATION OF INTEREST EARNED:**

Interest earned by the investment of surplus funds that may temporarily accumulate in the storm drainage fund shall be allocated to a drainage contingency fund which may be used to make up deficits in existing subfunds for purposes of reimbursement. Interest may also be used to fund administration and management of the basin fee structure, or for such other drainage purposes as determined by the Drainage Board with the prior approval of City Council. (Ord. 96-44; Ord. 01-42; Ord. 04-47)

### **7.7.912: APPLICABILITY OF PROVISIONS:**

A. Land, not otherwise excluded or exempted under this part:

1. Upon which drainage fees have not been assessed, or
  2. Upon which drainage facilities have not been built in accord with accepted detailed drainage plans and specifications, or
  3. Upon which detailed drainage plans and specifications have not been submitted,
- shall not be finally replatted until the terms of this part are complied with.

B. Land:

1. Upon which drainage fees have been paid, or
2. Upon which drainage facilities have been built in accord with accepted detailed plans and specifications,

may be replatted without additional assessment of drainage facilities if the drainage study submitted with the replat indicates no new drainage facilities are required as a result of said replat. (Ord. 96-44; Ord. 01-42)

## **PART 10 ARTERIAL ROADWAY BRIDGES**

### **7.7.1001: PURPOSE:**



**7.7.1002: DEFINITIONS:**

**7.7.1003: STUDIES OF NEEDS; ESTABLISHMENT OF PER ACRE COST:**

**7.7.1004: REVIEW BY SUBDIVISION STORM DRAINAGE BOARD AND CITY COUNCIL:**

**7.7.1005: FEES AND CHARGES:**

**7.7.1006: CHANGES:**

**7.7.1001: PURPOSE:**  

It is the purpose of this part to set forth a system under which the cost of constructing or expanding freeway, expressway and major or minor arterial roadway bridges, (hereinafter "Arterial Roadway Bridges") in the City, can equitably be funded. (Ord. 96-44; Ord. 01-42)

**7.7.1002: DEFINITIONS:**  

The following terms, as used in this part, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

**ARTERIAL ROADWAY:** Those roadways designated as freeway, expressway, major arterial or minor arterial on the City major traffic thoroughfare plan.

**ARTERIAL ROADWAY BRIDGE:** A structure, which is constructed to carry an arterial roadway over any natural or manmade drainage way. (Ord. 96-44; Ord. 01-42)

**7.7.1003: STUDIES OF NEEDS; ESTABLISHMENT OF PER ACRE COST:**  

- A. The City Engineer shall make periodic engineering studies of those roadways designated on the City major traffic thoroughfare plan as freeways, expressways or major or minor arterial roadways in relation to the drainage basins in the City, and the City Engineer shall determine and specify on the drainage basin maps of the City, proposed or expanded arterial roadway bridges.
- B. The City Engineer shall, after the completion of the arterial roadway bridge needs study, make an estimate of the cost for the expansion or construction of each arterial roadway bridge designated in each drainage basin.
- C. The City Engineer shall then estimate that portion of the total estimated cost of each arterial roadway bridge that is attributed to the width of such bridge in excess of sixty eight feet (68'). Such estimate shall be made by determining the percentage of the arterial roadway bridge over sixty eight feet (68') and then by multiplying the total estimated cost by such percent. The product shall be the responsibility of the City and the City Engineer's estimate shall be final. The City Engineer shall deduct from the total estimated cost, his estimate of that portion of the total estimated cost allocable to that portion of such bridge in excess of sixty eight feet (68') in width. The City Engineer shall then total all remaining costs for all the arterial roadway bridges in the given drainage basin, and divide such total by the total acreage of the drainage basin and determine a per acre cost for new or expanded arterial roadway bridges in the drainage basin to be paid into the arterial roadway bridge fund established for each drainage basin. (Ord. 96-44; Ord. 01-42)

## **7.7.1004: REVIEW BY SUBDIVISION STORM DRAINAGE BOARD AND CITY COUNCIL:**

The City Engineer shall report such arterial roadway bridge per acre cost to the Subdivision Storm Drainage Board<sup>1</sup>. The Subdivision Storm Drainage Board shall review the estimates of the City Engineer and then report and recommend to the City Council a per acre arterial roadway bridge cost for each drainage basin. City Council shall establish by resolution a per acre arterial roadway bridge cost for each drainage basin. Once established, such per acre cost shall be paid by each landowner, as his land within the drainage basin is platted. Payment of the per acre cost shall be in cash to the applicable arterial roadway bridge fund. The funds collected shall be used only for the construction or expansion of new or expanded arterial roadway bridges as designated on the drainage basin maps by the City Engineer. (Ord. 96-44; Ord. 01-42)

## **7.7.1005: FEES AND CHARGES:**

- A. Reestablishment Of Fees: The arterial roadway bridge per acre cost may be reestablished by the City Council as necessary. Such reestablishment of the per acre cost shall be based on changes in construction and other costs of revisions suggested by additional studies or other information obtained.
  
- B. City's Contribution: The City will contribute to each arterial roadway bridge fund established in each drainage basin that cost per acre that is attributed to land within the drainage basin for which the City Council has approved a preliminary/final plat or a final plat on the effective date of this part. Such City contribution will be made only after the City Council has budgeted and approved such expenditure.
  
- C. Reimbursement To General Fund: Should the City appropriate front end money to facilitate the construction of new or expanded arterial roadway bridges in excess of its mandatory contribution, such excess amount shall be paid back to the City's general fund as land within the applicable drainage basin is platted, and until the City's excess payment is accounted for. As more land is platted payment in the drainage basin shall then be to the applicable arterial roadway bridge fund.
  
- D. Adjustment To Drainage Basin Fund: As the per acre cost for the arterial roadway bridges is determined, the Subdivision Storm Drainage Board and City Council shall adjust the unit drainage cost for the drainage basin. (Ord. 96-44; Ord. 01-42)

## **7.7.1006: CHANGES:**

Should an arterial roadway be stricken from the major traffic thoroughfare plan and corresponding arterial roadway bridge not be necessary, credit or a refund as determined by the Storm Drainage Board, may be granted to those persons, including the City, who have contributed for such bridge. (Ord. 96-44; Ord. 01-42)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): See part 9 of this article.

# PART 11 ASSURANCES AND GUARANTIES FOR PUBLIC IMPROVEMENTS

## 7.7.1101: STATEMENT REQUIRED:

## 7.7.1102: SPECIFIC REQUIREMENTS PRIOR TO BUILDING PERMIT ISSUANCE:

## 7.7.1103: OBLIGATIONS OF LANDOWNERS:

## 7.7.1104: RETURN OF FEES AND RELEASE OF ASSURANCE:

## 7.7.1105: RENEWAL AND UPDATE OF ACCEPTABLE ASSURANCE:

### **7.7.1101: STATEMENT REQUIRED:**

The approved final plat shall contain the following statement:

*No building permits shall be issued for building sites within this plat until all required fees have been paid and all required public and private improvements have been installed as specified by the City of Colorado Springs or alternatively until acceptable assurances including but not limited to letters of credit, cash subdivision bonds or combinations thereof guaranteeing the completion of all required public improvements including but not limited to drainage, street and erosion control have been placed on file with the City of Colorado Springs.*

(Ord. 96-44; Ord. 01-42)

### **7.7.1102: SPECIFIC REQUIREMENTS PRIOR TO BUILDING PERMIT ISSUANCE:**



#### A. Streets And Drainage Improvements:

1. Whenever the tract of land to be platted embraces or abuts a major street (street with right-of-way width greater than 60 feet) or major drainage improvement (drainage facilities identified in the City's DBPS and master drainage plans), or a major street or major drainage improvement is necessary to serve the land to be platted, such major street or major drainage improvement, or both, shall be completed prior to the issuance of building permit or acceptable assurance guaranteeing the completion of the major streets or drainage improvements shall be filed with the City.
2. All other drainage improvements (public or private) necessary to convey and control the quality of stormwater runoff from or through the land to be platted to protect the building sites for which the building permit is requested, or to protect downstream property owners, shall be installed, completed and accepted (public drainage improvements only) by the City at the time of issuance of the building permit. The City Engineer may authorize the issuance of building permits before public or private drainage improvements are installed, completed and accepted (public drainage improvements only) by the City provided that the permit applicant agrees simultaneously to construct the drainage improvements with the buildings for which the permits are issued and acceptable assurances are on file. No buildings constructed shall be occupied, unless otherwise approved by the City Engineer, until the City has accepted the public drainage improvements and all private drainage improvements are completed, based on documentation satisfactory to the City Engineer.

- B. Utilities: No building permits shall be issued for building sites within any plat until all required utility systems have been installed in accord with all specifications of Utilities or, alternatively, until acceptable agreements guaranteeing the completion of all required utility systems and other requirements, as specified by Utilities, have been placed on file with Utilities.

The payment of all utility development charges, recovery agreement charges and all other Utilities charges associated with the building permit process shall be payable in full at the time the building permit is issued or as directed by Council. Such charges shall not be waived for governmental, quasi-governmental or any other user wishing to connect to a City service.

- C. Streets: Minor streets serving as access to a requested building permit site shall be installed, completed and approved, or acceptable assurance guaranteeing the completion of said improved access shall be placed on file with the City prior to the issuance of a building permit. (Ord. 96-44; Ord. 98-185; Ord. 01-42; Ord. 02-130; Ord. 07-85; Ord. 08-44; Ord. 18-38; Ord. 18-43)

#### **7.7.1103: OBLIGATIONS OF LANDOWNERS:**

The obligation for public improvements and utilities as set forth in this Code shall be the obligation of the landowner. The obligation for public improvements shall run with the land and shall be the obligation of future landowners, successors in interest, assignees or any such other persons who take title to the property or any lot or part thereof. (Ord. 96-44; Ord. 01-42)

#### **7.7.1104: RETURN OF FEES AND RELEASE OF ASSURANCE:**

- A. In the event of impossibility of proceeding with a development for which a final plat has been approved, under an order of any court or other public authority having jurisdiction, including the City, or as a result of an act of government, such as, but not limited to, a declaration of national emergency making materials unavailable through no act or fault of the subdivider or natural catastrophe such as flood or earthquake or similar act or occurrence over which the subdivider has no control, the subdivider may apply to the City Engineer for return of fees paid for drainage or school and park, or both, and release of acceptable assurance on file with the City; provided, however, that no fee or payment theretofore paid shall be refunded or acceptable assurance released unless the recorded plat for which the fees were paid or acceptable assurance was filed is vacated.
- B. Upon receipt of such application, the City Engineer shall investigate the circumstances set forth in the letter of application to verify the same. If the City Engineer finds no sales of land in a subdivision with reference to the final recorded plat, the City Engineer may relieve the subdivider from the requirement of filing acceptable assurance and may release the assurance previously filed with the City and refund the fees paid upon vacation of the plat. If the City Engineer finds that lands have been sold or developed, the City Engineer shall require the installation of all required improvements from the nearest improved street or from the nearest utility main or line of adequate capacity to such point as shall be necessary to serve the land so sold or developed, the City Engineer may release the assurance as to unsold and undeveloped land beyond that point, provided, however, that the existing drainage facilities are adequate to protect existing development.

C. No building permit shall be issued for the construction of any improvement on the land for which acceptable assurance would otherwise be required while such release is in effect. (Ord. 96-44; Ord. 01-42)

**7.7.1105: RENEWAL AND UPDATE OF ACCEPTABLE ASSURANCE:**  

A. Responsibility Of Subdivider: If assurances filed with the City expire, no building permits for building site shall be issued. It shall be the responsibility of the subdivider to keep current all assurances filed with the City. The City shall have the right at any time to increase or decrease the amount of assurance in accord with the current estimates of public improvements or utilities, it being the intent of this provision that the subdivider shall pay the entire cost of all improvements, and the subdivider shall in no way limit his liability therefor by filing assurances based upon estimates.

B. Release Of Assurances: Except as herein provided, assurances for public improvements shall be released upon inspection and acceptance by the City in accord with the Subdivision Policy Manual. If upon inspection of the public improvements deficiencies are found, then only that portion of the public improvements that are found to be acceptable shall be released from assurance. An acceptable amount of assurance as determined by the City shall be maintained to cover the cost of repair or correction. Upon completion of the repair or correction to the satisfaction of the City, the balance of the assurance shall be released. In order to obtain a release of reduction of assurance filed with the City, the request must be made in writing to the City Engineer for an inspection of the improvements covered by the assurance.

C. Subdivision Financial Assurance:

1. Assurances Provided: Financial assurances for construction shall be provided by subdividers and other developers responsible for constructing public street and drainage infrastructure for the City of Colorado Springs. A financial assurance in and on a form approved by the City Attorney and issued by a surety approved by the City Attorney, must be posted for public improvements according to the following table:

<u>Total Financial Assurance Obligation</u>	<u>Financial Assurance Required</u>
\$200,000.00 or less	90 percent
\$200,000.01 - \$400,000.00	80 percent
\$400,000.01 - \$600,000.00	70 percent
\$600,000.01 - \$800,000.00	60 percent
\$800,000.01 or greater	50 percent

"Total financial assurance obligation" means the sum total dollar amount of each individual construction assurance due to the City from the subdivider or developer. The financial assurance percentage referred to in the above table means that percentage of the total financial assurance obligation which is due to the City from the subdivider or developer to satisfy the subdivider's or developer's assurance obligation<sup>1</sup>.

In the event the City draws upon a subdivider's or developer's financial assurance percentage so that the dollar sum of financial assurance available to the City drops below the financial assurance percentage required, the subdivider or developer shall promptly and within fourteen (14) calendar days increase dollar sum of the financial assurance to not less than the minimum level shown in the table above.

2. **Warranty Retainage And Cap:** A warranty retainage of ten percent (10.0%) of the financial assurance obligation shall be required throughout the warranty period. Any subdivider or developer whose "total retainage", defined as the sum of all subdivisions in warranty, exceeds the City Engineer's warranty and retainage cap may, if the subdivider or developer so desires, provide the City Engineer with a single financial assurance in the amount of the warranty and retainage cap to cover all of the subdivision warranty obligations. In the event that the single financial assurance should fall to less than City Engineering's warranty and retainage cap, and the subdivider's or developer's total retainage still exceeds the warranty and retainage cap, then the subdivider or developer shall promptly and within fourteen (14) calendar days increase the total of the single assurance to a minimum of the warranty and retainage cap. The amount of the warranty and retainage cap is one hundred fifty thousand dollars (\$150,000.00) and it shall be adjusted by the City Engineer from time to time to keep pace with construction costs. However, certain major facilities and off site facilities as determined by the City Engineer, including, but not limited to, arterial streets, bridges, and regional detention ponds, shall require posting by the subdivider or developer of a one hundred percent (100.00%) financial assurance and a separate ten percent (10.0%) warranty retainage unless a reduced amount is approved by the City Engineer.
3. **Obligation:** Nothing in this section shall be deemed to relieve any subdivider or developer of the obligation to complete construction and maintenance obligations for public streets and drainage infrastructure. Forfeiture of assurances under this section shall be penal and punitive, and the City shall retain all rights to utilize forfeited funds in a manner which it deems appropriate.
4. **Certification Of Compliance:** All public street and drainage construction shall be certified in compliance with the approved construction plans and specifications by a professional engineer (PE) licensed in the State of Colorado, prior to any acceptance of that infrastructure by the City and prior to commencement of any warranty period. All public street and drainage construction in new subdivisions shall also comply with compaction testing requirements as set forth in the City Engineer's Standard Specifications, as may be amended from time to time. (Ord. 96-44; Ord. 01-42; Ord. 01-153; Ord. 09-80)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) By way of example, in subdivision A, approved on January 10, 2002, a subdivider or developer has a street financial assurance obligation of \$100,000.00 and a separate drainage financial assurance obligation of \$300,000.00. The subdivider's or developer's financial assurance percentage required to be posted would be 90 percent for the street and 80 percent for the drainage.

## **PART 12 PARK AND SCHOOL SITE DEDICATIONS**

### **7.7.1201: POLICY AND PURPOSE:**

### **7.7.1202: PARK STANDARDS:**

### **7.7.1203: DEDICATIONS OF LAND FOR PARKS:**

### **7.7.1204: SCHOOL STANDARDS:**

### **7.7.1205: STUDENT POPULATION DENSITY:**

### **7.7.1206: SCHOOL LAND DEDICATION REQUIREMENTS:**

### **7.7.1207: DEDICATION OF LAND REQUIRED FOR PUBLIC USES:**

### **7.7.1208: APPLICABILITY OF PROVISIONS:**

### **7.7.1209: REVIEW OF REQUIREMENTS:**

### **7.7.1210: REPLATTING OR RESUBDIVIDING:**

### **7.7.1201: POLICY AND PURPOSE:**

It is hereby declared to be the policy of the City that whenever land is proposed for residential use, the owner of the land should provide land for school needs generated by the proposed residential use, and the owner of the land should provide land or fees primarily for park needs generated by the proposed residential use and secondary fees, if any, for physical improvements thereto. It is the purpose of this part to require the dedication of land or the payment of fees in lieu thereof or both to fulfill such needs. In the case of the dedication or conveyance and acceptance of land, the appropriate school district or the City will be required to pay their share of costs incurred in the development of the school or park site including, but not limited to, adjacent roads, drainage, sidewalks and utility extensions. The payment of these costs will be deferred until funds are appropriated and may be deferred pursuant to a recovery agreement between the landowner and the City or school district so that the costs need not be paid by the City or the school district until improvements to the land are completed and the land is put to public use. If payment of costs are deferred pursuant to a recovery agreement, ten percent (10%) of the costs shall be added to the costs for each year up to fifteen (15) years. (Ord. 96-44; Ord. 01-42)

### **7.7.1202: PARK STANDARDS:**

In the interest of the health, safety and general welfare of the people of the City, the park area standards as adopted herein are adopted to provide a guide to facilitate adequate provision for parks as the City develops. (Ord. 96-44; Ord. 01-42)

### **7.7.1203: DEDICATION OF LAND FOR PARKS:**

It is hereby found and determined:

- A. That a part of the public need for parks generated by the influx of new residents should be provided for by mandatory dedication of land or fees in lieu thereof as a condition of final plat approval.

- B. That it is reasonable to require the dedication of land or payment of fees-in-lieu thereof to provide the following facilities: neighborhood park or community park, resulting in a total requirement of 7.5 acres per one thousand (1,000) persons.
  
- C. That the 1970 Federal Census shows that, in the City, there are an average of 3.1 persons per owner-occupied dwelling and 2.2 persons per renter-occupied dwelling.
  
- D. That the density of owner-occupied developments is usually eight (8) dwelling units per acre or less while the density of renter-occupied developments is usually greater than eight (8) dwelling units per acre.
  
- E. That, for purposes of determining the park land dedication requirement, where the gross residential land density is greater than eight (8) dwelling units per acre, the population averages 2.2 persons per dwelling unit and where the gross residential land density is less than or equal to eight (8) dwelling units per acre, the population averages 3.1 persons per dwelling unit.
  
- F. That the resulting requirements of land to be dedicated for parks and open space is 0.0165 acres (719 square feet) per dwelling unit for residential land densities in excess of eight (8) dwelling units per acre, and 0.02325 acres (1,013 square feet) per dwelling unit for residential land densities of eight (8) dwelling units per acre or less.
  
- G. That the City's requirements for regional parks, open spaces and special facilities should be provided from sources other than those set forth in this part. (Ord. 96-44; Ord. 01-42)

**7.7.1204: SCHOOL STANDARDS:**  

It is hereby found and determined that minimum acreage requirements for schools, assuming ideal site topography, are as follows:

Elementary school	790 students	10 acres	0.0127 site acres/student
Junior high school	1,000 students	20 acres	0.02 site acres/student
Senior high school	2,000 students	45 acres	0.0225 site acres/student

(Ord. 96-44; Ord. 01-42)

**7.7.1205: STUDENT POPULATION DENSITY:**  

It is hereby found and determined:

- A. That the survey area for the school population study of June 1973, is typical of the developing areas in the City:

STUDENTS PER DWELLING UNIT



	<u>Students/DU</u>
<b>Elementary</b>	
5,499 single-family and duplex at 4,032 students	0.7332
2,651 multi-family at 469 students	0.1769
<b>Junior High School</b>	
5,499 single-family and duplex at 1,691 students	0.3075
2,651 multi-family at 135 students	0.0509
<b>Senior High School</b>	
5,499 single-family and duplex at 1,139 students	0.2071
2,651 multi-family at 193 students	0.0728

REQUIRED ACRES PER DWELLING UNIT

					<u>Acres/DU</u>
<b>Low Density</b>					
Elementary	0.7332	x	0.0127	=	0.0093
Junior high school	0.3075	x	0.02	=	0.0061
Senior high school	0.2071	x	0.0225	=	<u>0.0046</u>
					0.0200
<b>High Density</b>					
Elementary	0.1769	x	0.0127	=	0.0022
Junior high school	0.0509	x	0.02	=	0.0010
Senior high school	0.07	x	0.0225	=	<u>0.0016</u>

						0.0048
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B. That the survey data is a reasonable and valid basis for determining a school land dedication requirement. (Ord. 96-44; Ord. 01-42)

**7.7.1206: SCHOOL LAND DEDICATION REQUIREMENTS:**  

Based upon the foregoing school standards and school population density data, it is hereby found and determined that for residential land having a density greater than eight (8) dwelling units per acre, there is a requirement for 0.0048 acres (209 square feet) per dwelling unit and for residential land having a density of eight (8) dwelling units per acre or less there is a requirement of 0.02 acre (871 square feet) per dwelling unit. (Ord. 96-44; Ord. 01-42)

**7.7.1207: DEDICATION OF LAND REQUIRED FOR PUBLIC USES:**  

As a condition of final plat approval, every subdivider shall dedicate land areas for schools and parks or shall agree to pay a sum of money sufficient to provide for such needs at time of building permit issuance.

A. Parks:

1. Amount Of Land To Be Dedicated: The amount of land required to be dedicated by the subdivider for parks shall be 0.0165 acre (719 square feet) per dwelling unit for residential land densities in excess of eight (8) dwelling units per acre, and 0.02325 acre (1,013 square feet) per dwelling unit for residential land densities of eight (8) dwelling units per acre or less. Any land to be dedicated, as a requirement of this part shall be reasonably adaptable for use as a neighborhood park or community park. Factors used in evaluating the adequacy of proposed park areas shall include size and shape, topography, geology, flora and fauna, access, and location.
2. Credit For Private Parks: Where private land for park purposes is provided and such land is to be privately owned and maintained by or for the future residents of the development, such areas may be credited in whole or in part against the requirement of dedication for park purposes up to a maximum of one hundred percent (100%) of the dedication requirement, provided the City Council finds it is in the public interest to do so and that the following standards are met:
  - a. That building and parking setbacks required to be maintained under the zoning and building regulations, shall not be included in the computation of such private land;
  - b. That the private operation and maintenance of the land is adequately provided for by written agreement with the City;
  - c. That the use of the private land is restricted for park purposes, by recorded covenants which run with the land in favor of the future residents of property within the development, and which cannot be defeated or eliminated without the consent of the City Council;
  - d. That the proposed private land is reasonably adaptable for use for park purposes, taking into consideration such factors as size, shape, topography, geology, access and location;
  - e. That the improvements proposed for the private land are approved by the City Council;

- f. That the amount of credit allowed shall depend upon the extent to which the private land serves the overall park and recreation needs of the future residents of the development.
3. Multiuse Trails: For purposes of park land dedication requirements or fees to be paid in lieu thereof under this part in those land developments where proposed trails are located, land for trails may be substituted in lieu of land for parks in whole or in part. No fees in lieu of trail land dedication will be accepted unless there is an acceptable alternate route shown on the multiuse trail master plan.
4. Open Space: For purposes of park land dedication requirements or fees to be paid in lieu thereof, under this part, in this land development where open space areas are designated, land for open space may be substituted in lieu of land for parks after all requirements for parks and/or trails have been met. Credit for open space shall be determined by the "Open Space Credit Rating System" as approved by the Parks and Recreation Advisory Board.

#### B. School Sites:

1. Amount Of Land To Be Dedicated: The amount of land required to be dedicated for school sites shall be 0.0048 acre (209 square feet) per dwelling unit where the residential land density is greater than eight (8) dwelling units per acre, and 0.02 acre (871 square feet) per dwelling unit where the residential land density is eight (8) dwelling units per acre or less. This is a minimum requirement for land to be dedicated. The site shall meet the following criteria:
  - a. Adequate access.
  - b. Proper general configuration.
  - c. Suitable physical characteristics, such as drainage, vegetation and soil type.

#### C. Fees In Lieu Of Land:

1. Choice Of Land Or Fee:
  - a. Procedure: The procedure for determining whether the subdivider is to dedicate land, pay a fee, or both, shall be as follows:
    - (1) Subdivider: At the time of filing a preliminary or final plat, if the City approved master plan for the area indicated a future park or school site, the subdivider shall contact both Parks and Recreation and the school district to determine the desire of both agencies regarding the area.
    - (2) Action Of The City: At the time of filing a preliminary or final plat, the Parks and Recreation Department shall indicate whether land dedication or fees in lieu of land are required for park purposes. If the City desires land dedication, the subdivider shall designate the area thereof on the preliminary and final plat.
    - (3) School District: At the time of filing a preliminary or final plat, the appropriate school district shall indicate whether land dedication or fees in lieu of land are required for school purposes.

- (4) Review: The Parks and Recreation Department and appropriate school district shall submit their recommendations to the Community Development Department within ten (10) days of notification that a plat has been filed.
- (5) Prerequisites For Approval Of A Preliminary/Final Or Final Plat: Dedication when required shall be accomplished by transfer of deed or dedication by plat. This must be done prior to approval of the preliminary/final or final plat. The subdivider shall be required to convey clear title to the land to be deeded or dedicated to the City or school district. Where the subdivider cannot convey clear title at the time of final plat approval, the City Council may, in its discretion, accept a contract to convey the land at a later time certain accompanied by an acceptable assurance guaranteeing payment of a sum equal to the value of the land. Where the site is under the control of a third party, a similar three (3) party arrangement may be made. Covenants for private park or open space shall be submitted to the City prior to approval of the final plat and shall be recorded contemporaneously with the final plat.

Where fees are required such fees shall be paid at the time of platting. School fees shall be made payable to the appropriate school district and park fees shall be made payable to the City. In those special cases where park land is to be purchased with fees collected, the purchase price of the park land shall be determined by fees paid at the time of platting.

2. Amount Of Fee In Lieu Of Land Dedication: The fee in lieu of land dedication shall be established each year as of January 1 by the City Council upon recommendation from the School/Park Fee Advisory Committee to be composed of seven (7) members appointed by the City Council for three (3) year terms. The Director of Parks and Recreation shall be secretary of the Committee without vote. City Council shall appoint six (6) members as follows: one member of the Committee shall be a certified land appraiser doing business in the City; one member shall be a land developer experienced in subdivision and improvement of land; one member shall be a person actively engaged in the construction and sale of housing; one member shall be a member of the Park and Recreation Advisory Board; and one member shall be a person actively engaged in the design and development of recreational parks, and one member shall be a citizen at large. The school districts within or partly within the City shall appoint one member who shall be a representative of school board/administrator.

The Committee shall advise the City Council for the school and park fees in lieu of dedication for residential development eight (8) units per acre or less and for residential development of more than eight (8) units per acre. Such fees shall approximate on a per dwelling unit basis the cost to acquire land sufficient to meet school needs and to acquire and develop land sufficient to meet the park needs.

#### D. Additional Information Required On All Plats:

1. At the time of filing a preliminary or final plat for approval, the subdivider shall, as a part of such filing, plat any designated park areas and shall indicate the number of acres proposed for such uses, and the number and type of proposed dwelling units for each lot in the filing.
2. The final plat shall record the manner of compliance with the provisions of this part for both school and park purposes. As appropriate, the plat shall record acreage dedicated. Dedication or conveyance and acceptance of the land shall state that land is to be used for both school and park purposes.

E. Disposal Of Surplus School Land: In the event any school district which has received school site land as a result of the provisions of this part determines that the school site will not be used for school purposes, the following disposal procedure shall be followed:

1. That portion of the school site adjacent to the park site that was to have been used as a joint site for recreational activities by both the City and school district or that portion of the school site that can be used for recreational activities or any portion thereof that can be used for recreational activities, as determined by the Director of Parks and Recreation shall be offered to the City for park or open space purposes, and if the City accepts such offer the City shall reimburse the school district and/or the landowner in an amount equal to the amount of land times the current school/park fee in effect at the time of the school site disposal<sup>1</sup> plus any actual costs incurred by the school district in the development of the portion of the school site acquired including, but not limited to, adjacent roads, drainage, or sidewalks. Ten percent (10%) of the actual costs shall be added to the actual costs for each year up to fifteen (15) years.
2. If the Director of Parks and Recreation determines that the City does not desire the recreational portion of the school site or only desires a portion of the recreational portion of the school site, then the school district shall offer all of the remaining surplus school site to the person who dedicated such real property for school purposes, and if the person who dedicated the property desires to acquire the land from the school district, that person shall trade, if possible, for other land the school district desires or that person shall pay the current school fee in effect at the time of the school site abandonment plus any actual costs incurred by the school district in the development of the site including, but not limited to, adjacent roads, drainage, or sidewalks. Ten percent (10%) of the actual costs shall be added to the actual costs for each year up to fifteen (15) years.
3. If there is any school site land left over after the City and original dedicating person have made their decisions regarding acquisition of such site, the school district may offer the land for sale subject to applicable State statutes, rules and regulations.
4. Anyone other than the City acquiring surplus school site property shall be required to meet all the terms and conditions of the Zoning Code of this chapter pertaining to zoning and subdivision in seeking to develop such land. (Ord. 96-44; Ord. 96-150; Ord. 01-42; Ord. 09-80)

#### **7.7.1208: APPLICABILITY OF PROVISIONS:**

This part shall apply to all plats, which have not satisfied both of the following conditions prior to August 28, 1974:

- A. The preliminary or final plat must have been approved by the City Council or the Board of County Commissioners of the County of El Paso; and
- B. The preliminary or final plat must have satisfied all prerequisites of plat approval imposed by this chapter and all provisions and stipulations imposed by the City Council or all prerequisites of plat approval imposed by the Board of County Commissioners of the County of El Paso. (Ord. 96-44; Ord. 01-42)

#### **7.7.1209: REVIEW OF REQUIREMENTS:**

All requirements of this part and the data upon which they are based shall be reviewed annually by the Park and Recreation Advisory Board and the Planning Commission and such bodies shall make

a written report and recommendation to the City Council prior to November 15 of each year as to the need for revision. (Ord. 96-44; Ord. 01-42)

### **7.7.1210: REPLATTING OR RESUBDIVIDING:**

The following considerations will be taken in account in any replat of land platted prior to September 6, 1973, for which land fees were paid or land was dedicated:

- A. If such replat is to correct engineering errors (legal descriptions) such replat will be exempt from this part.
  
- B. If park and school fees have been paid or land dedicated, or both, the land replatted shall be exempt from the provisions of this part unless as a result of such replat residential density is increased. If residential density is increased, the owner shall pay the fees or dedicate land, or both, in those amounts set forth in this part as applied only to additional numbers of residential units increasing the density. If residential density is decreased, the provisions of this part shall not apply. (Ord. 96-44; Ord. 01-42)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): See part 11 of this article.

## **PART 13 SUBDIVISION WAIVERS**

### **[7.7.1301: SUBDIVISION WAIVER DEFINED:](#)**

### **[7.7.1302: CRITERIA FOR GRANTING WAIVER:](#)**

### **[7.7.1303: WAIVER PROCEDURE:](#)**

### **[7.7.1304: ACTION ON REQUESTED WAIVER:](#)**

### **7.7.1301: SUBDIVISION WAIVER DEFINED:**

A "subdivision waiver" is defined as authorization to deviate from either the procedural requirements of parts 1, 2, 3 and 4 of this article or the design standards of parts 6 and 7 of this article. (Ord. 96-44; Ord. 01-42)

### **7.7.1302: CRITERIA FOR GRANTING WAIVER:**

A. Procedural Requirements: A waiver, which shall be requested prior to any subdivision request, may be granted when all of the following criteria are met:

1. Specific application of the procedural requirements makes strict enforcement an unreasonable burden upon the property and presents a difficulty unique to the development of that property given its circumstances. An assertion or showing that compliance increases cost of development does not satisfy this test;

2. The benefit to the public in waiving the requirement outweighs the harm to the property owner in strictly enforcing the requirement;
3. The intent and purpose of this part are implemented and waiver from any requirement may be reasonably calculated to substantially secure the objectives of this article and the Comprehensive Plan, as well as the requirement so waived.

B. Design Standards: Except for MU zone districts, a waiver, which shall be requested concurrently with any subdivision request, may be granted when criteria in subsections B1 through B4 of this section are met. In an MU zone district only, the following criteria in subsections B1, B4 and B5 of this section shall be met:

1. The waiver will not be detrimental to the public good or to surrounding properties;
2. There are exceptional topographic, soil or other surface conditions particular to the property, which are not ordinarily found in the general vicinity;
3. The strict application of the requirements of this part when applied to the property with its exceptional conditions prohibits the use of the property or its reasonable physical development when compared to the opportunity to use and develop similar properties in the general vicinity;
4. The waiver shall be consistent with the intent and purpose of this part, the Comprehensive Plan and State law.
5. As applied in the MU zone districts only, the applicant proposes alternative compliance to the strict application of the design standard in question, such that the alternative:
  - a. Achieves the intent of the subject design standard to the same or better degree than the subject standard;
  - b. Achieves the mixed use goals and policies in the Comprehensive Plan to the same or better degree than the subject standard, such as, but not limited to, a more compact development form; and
  - c. Results in equivalent or better benefits to the community as compliance with the subject design standard. (Ord. 96-44; Ord. 01-42; Ord. 03-157)

### **7.7.1303: WAIVER PROCEDURE:**

A. Submission:

1. Application Form: The subdivider shall submit a completed application form for a waiver to the subdivision regulations and any necessary supportive documentation and sketch plan information as described on the application form provided by the Community Development Department.
2. Application Fee: The subdivider shall pay an application fee at the time of submitting the application form.
3. Public Notice: The public notice requirements as defined by part 1 of this article shall apply. (Ord. 96-44; Ord. 01-42; Ord. 03-16; Ord. 09-80)

### **7.7.1304: ACTION ON REQUESTED WAIVER:**

At a regular scheduled public hearing and following a review of all recommendations from the appropriate agencies, the Planning Commission shall take final action on the requested design standards waiver. Decisions rendered by the Planning Commission shall be final unless appealed to City Council. The Planning Commission may approve, approve with conditions, deny, or postpone for further study the requested subdivision waiver.

- A. Approval: If the Planning Commission determines that the waiver request satisfies all the criteria as set forth in this part, the waiver may be approved.
- B. Conditional Approval: If the Planning Commission determines that the waiver request satisfies all the criteria as set forth in this part only under certain conditions, the waiver may be approved with such conditions specified.
- C. Disapproval: If the Planning Commission determines that the waiver request does not satisfy all the criteria as set forth in this part the waiver may be denied. For a period of twelve (12) months from the date of denial, the Planning Commission shall not consider a request identical to or substantially the same as that which was denied.
- D. Postponement: When there is a question as to the facts of the matter satisfying the criteria as set forth in this part, the request may be postponed for additional information, clarification or review prior to the next scheduled Planning Commission public hearing for which public notice can be given. If the request is postponed, a decision shall be rendered at such a public hearing. (Ord. 96-44; Ord. 01-42; Ord. 03-16)

## **PART 14 BUILDING PERMITS**

### **7.7.1401: COMPLIANCE REQUIRED:**

### **7.7.1402: COMPLIANCE NOT REQUIRED:**

### **7.7.1401: COMPLIANCE REQUIRED:**

No building permits shall be issued for the construction or reconstruction of structures upon any land or the addition to any building or structure situated on any land, unless such land has been subdivided and platted in accord with the procedures set forth in this article. Building permits may be withheld pending completion of utilities installation critical to site. A whole platted lot, an approved issuance of building permit to unplatted land, or an approved issuance of a waiver of replat is required to comply with this section. Exceptions are set forth in this part. (Ord. 96-44; Ord. 01-42; Ord. 17-2)

### **7.7.1402: COMPLIANCE NOT REQUIRED:**



Compliance with the provisions of this article shall not be required for the following:

A. The proposed alteration is limited to repair or modification of the interior of the structure, commonly known as an interior remodel, or modification of other structural elements exterior to but attached as part of the structure, such as roofing, windows, doors, siding, porch, stoop and stairway; or the addition to the principal structure is no larger than fifty percent (50%) of the principal structure gross floor area; or the addition of a detached accessory structure(s) is no larger than one hundred percent (100%) of the principal structure footprint; or the addition of a deck(s) or patio/porch cover(s) or both; and

1. The property is a lot of record and has provided the City deed documentation that meets the "lot of record" definition.

B. Construction on public park lands where all of the following conditions exist:

1. The property is zoned either PK (public parks) or PF (public facilities), and

2. The park was deeded to the City of Colorado Springs prior to January 1, 1990, and

3. A detailed dimensionalized site plan is submitted with the building permit application showing the existing site improvements and the proposed improvements in relation to the site and to the adjacent properties, and

4. The proposed structure is of benefit to the public in general, and

5. The structure will not require a street extension.

C. The construction within parks created after January 1, 1990, must be platted in accord with part 3 of this article.

D. The property is a whole platted lot except for land dedicated to the public (i.e., Federal, State, County, or other municipality). (Ord. 96-44; Ord. 99-122; Ord. 01-42; Ord. 17-2)

## **PART 15 GRADING PLANS AND EROSION AND STORMWATER QUALITY CONTROL PLANS**

**[7.7.1501: PURPOSE:](#)**

**[7.7.1502: DEFINITIONS:](#)**

**[7.7.1503: GRADING PLANS:](#)**

**[7.7.1504: EROSION AND STORMWATER QUALITY CONTROL PLANS:](#)**

**[7.7.1505: BASIC GRADING, EROSION AND STORMWATER QUALITY  
REQUIREMENTS AND GENERAL PROHIBITIONS:](#)**

**7.7.1506: NUISANCE TO THE PUBLIC HEALTH, SAFETY AND WELFARE DECLARED:**  
**7.7.1507: INSPECTIONS:**  
**7.7.1508: COMMENCEMENT OF CORRECTION PROCEEDINGS:**  
**7.7.1509: ENFORCEMENT MEASURES AND REMEDIES:**  
**7.7.1510: NOTICE AND ORDER TO CORRECT:**  
**7.7.1511: SERVICE OF NOTICE AND ORDER:**  
**7.7.1512: GRADING BOARD OF APPEALS; PROCEDURES:**  
**7.7.1513: EFFECT OF FAILURE TO APPEAL:**  
**7.7.1514: NO STAY OF ORDER DURING APPEALS:**  
**7.7.1515: ENFORCEMENT OF ORDER AND COMPLIANCE WITH THE CITY CODE:**  
**7.7.1516: ACCOUNTING OF EXPENSES/BILLING OF PROPERTY OWNER:**  
**7.7.1517: SETTING OF HEARING:**  
**7.7.1518: PROTESTS AND OBJECTIONS:**  
**7.7.1519: HEARING ON REPORT, PROTEST:**  
**7.7.1520: PERSONAL OBLIGATION OR SPECIAL ASSESSMENT:**  
**7.7.1521: CONTEST ASSESSMENT:**  
**7.7.1522: LIEN OF ASSESSMENT:**  
**7.7.1523: REPORT TO ASSESSOR AND TAX COLLECTOR:**  
**7.7.1524: COLLECTION OF ASSESSMENT:**  
**7.7.1525: REPAYMENT OF CORRECTION FUND:**  
**7.7.1526: RESPONSIBILITY AND LIABILITY:**  
**7.7.1527: INSPECTIONS, MAINTENANCE, AND ENFORCEMENT OF PERMANENT STORMWATER BEST MANAGEMENT PRACTICES:**

**7.7.1501: PURPOSE:**  

The purpose of this part is to safeguard life, limb, property and the public welfare from grading, erosion and other potential stormwater quality impacts on private property. The intent is to require persons who engage in grading or who have grading undertaken to accomplish the grading in a safe manner and with the appropriate erosion and stormwater quality controls and best management practices (BMPs) so that grading does not result in adverse effects to persons or property, or both. The intent is also to protect from adverse effects to persons or property, or both, by requiring persons owning or responsible for BMPs to properly inspect and maintain the BMPs. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

**7.7.1502: DEFINITIONS:**  

**BEST MANAGEMENT PRACTICES (BMPs):** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. BMPs include structural and nonstructural controls.

**CITY ENGINEER:** The City Engineer or the City Engineer's designated representative.

**DANGEROUS GRADING:** Any fill, excavation or grading that as a result of natural or unnatural conditions has or will result in damage to life, limb or property.

**EROSION:** The process by which the ground surface is worn away by action of wind, water, gravity, or any combination thereof.

**EXCAVATION:** The mechanical removal of earth material.

**FILL:** A deposit of earth material by mechanical means.

**GRADING:** Any excavating or filling or combination thereof.

**MANUAL:** "Drainage Criteria Manual, Volume II: Stormwater Quality Policies, Procedures And Best Management Practices".

**RESPONSIBLE PARTY:** The owner of the property on which BMPs have been constructed, and any other person or agent in control of the property (e.g., homeowners' association).

**STATE WATERS:** Any and all surface and subsurface waters which are contained in or flow in or through this State, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

**STORMWATER:** Precipitation induced surface runoff and drainage. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.1503: GRADING PLANS:**

No person shall undertake any grading on private property that will result in:

- A. Excavation or fill of five hundred (500) cubic yards or more, or
- B. The grading of a site with land disturbance of one or more acres, or
- C. Grading on any property with a natural slope in excess of eight percent (8%), or
- D. Any combination of the above three (3), or
- E. Any grading or other disturbance of land in an area zoned hillside area overlay zone under section [7.3.504](#) of this chapter, unless the person has obtained from a registered professional engineer licensed by the State of Colorado a grading plan done in a manner to protect other property from the adverse effects of the grading. The grading plan shall be signed and bear the seal of a registered professional engineer licensed by the State of Colorado. Specifically, and without limitation or inclusion, the grading plan should include the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, and should be of sufficient clarity to indicate the nature and extent of the work proposed and shall include the engineer's statement that the work will not become a hazard to life and limb, endanger property, or adversely affect the safety, use or stability of a public way, drainage channel or other property. An owner's statement shall also be included on the grading plan agreeing to comply with the requirements of the grading plan.

The grading plan shall be submitted to the City Engineer for review and acceptance. An erosion and stormwater quality control plan is also required to be submitted to the City Engineer for review and acceptance in conjunction with a grading plan<sup>1</sup>. A combined grading, erosion and stormwater quality control plan may be prepared and submitted if all the requirements for both plans can be incorporated into a single plan and presented in a clear manner. Signoff and acceptance of both the grading plan and the erosion and stormwater quality control plan, or a combined plan, by the City Engineer shall constitute a grading permit authorizing the approved land disturbance and implementation of the approved erosion and stormwater quality control measures; provided that acceptance shall not constitute a grading permit for any area zoned hillside area overlay zone under section [7.3.504](#) of this chapter.

Grading plans and/or erosion and stormwater quality control plans (plans) expire if site construction or land disturbance has not commenced within twelve (12) months of the City Engineer's plan acceptance. The plans must then be resubmitted for acceptance. Previously accepted plans must also be resubmitted to the City Engineer for acceptance when any of the following occur: 1) change in ownership of the property to be disturbed, 2) proposed development changes to the site, or 3) proposed grading revisions to the site.

- F. Any grading or other disturbance of land in an area zoned streamside overlay zone under section [7.3.508](#) of this chapter. Grading and other disturbances of land zoned streamside overlay may be undertaken in accord with a development plan approved in compliance with section [7.3.508](#) of this chapter. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 07-180; Ord. 08-44)

#### **7.7.1504: EROSION AND STORMWATER QUALITY CONTROL PLANS:**

- A. At a minimum, an erosion and stormwater quality control plan is required whenever a grading plan is required or when one acre or more of land will be disturbed. All requirements for any land disturbance in hillside overlay areas are included in section [7.3.504](#) of this chapter. The erosion and stormwater quality control plan shall require the design, implementation and maintenance of BMPs as set forth in the most recent version of the "Drainage Criteria Manual, Volume II: Stormwater Quality Policies, Procedures And Best Management Practices", and shall include the plan elements as set forth in the manual, including a cost estimate for all erosion and stormwater quality control measures, prior to filing with the City Engineer. The erosion and stormwater quality control plan shall be signed and sealed by a professional engineer licensed in Colorado. An owner's statement shall also be included on the erosion and stormwater quality control plan agreeing to comply with the requirements of the plan. Plan signoff and acceptance by the City Engineer shall constitute an erosion and stormwater quality control permit, except in hillside overlay areas (see section [7.3.504](#) of this chapter for requirements), authorizing the implementation of the approved erosion and stormwater quality control measures.

- B. Typical activities for which an erosion and stormwater quality control plan is generally not required are designated as minor land disturbing activities and include:

1. Any project involving land disturbing activity of less than one acre, and which disturbs less than five hundred (500) cubic yards of material (cut and/or fill).
2. Individual home landscaping, gardening, maintenance and repair work.
3. Agriculture and related activities.

4. Other land disturbing activities which will result in minimum soil erosion or the movement of sediment into waters or onto property off the project site and that include land disturbance of less than one acre and less than five hundred (500) cubic yards of material (cut and/or fill).
- C. An erosion and stormwater quality control plan may be required for specific minor land disturbing activities if deemed necessary by the City Engineer. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.1505: BASIC GRADING, EROSION AND STORMWATER QUALITY**

#### **REQUIREMENTS AND GENERAL PROHIBITIONS:**

Any land disturbance by any owner, developer, builder, contractor or other person shall comply with the basic grading, erosion and stormwater quality requirements and general prohibitions as listed below. In many cases, this will require the design, implementation and maintenance of BMPs as specified in the manual, even if an erosion and stormwater quality control plan is not required.

- A. Stormwater discharges from construction sites shall not cause or threaten to cause pollution, contamination or degradation of State waters.
- B. Concrete wash water shall not be discharged to or allowed to runoff to State waters, including any surface or subsurface storm drainage system or facilities.
- C. Building, construction, excavation or other waste materials shall not be temporarily placed or stored in the street, alley or other public way, unless in accord with an approved traffic control plan. BMPs may be required by the City Engineer if deemed necessary, based on specific conditions and circumstances (e.g., estimated time of exposure, season of year, etc.).
- D. Vehicle tracking of soils off site shall be minimized.
- E. All wastes composed of building materials must be removed from the construction site for disposal in accord with local and State regulatory requirements. No building material wastes or unused building materials shall be buried, dumped or discharged at the site.
- F. No chemicals are to be used, which have the potential to be released in stormwater unless permission for the use of a specific chemical is granted in writing by the City Engineer. In granting permission to use specific chemicals, special conditions and monitoring may be required.
- G. Bulk storage structures for petroleum products and other chemicals shall have adequate protection to contain all spills and prevent any spilled material from entering State waters, including any surface or subsurface storm drainage system or facilities.

- H. All persons engaged in earth disturbance shall implement and maintain acceptable soil erosion and sediment control measures including BMPs in conformance with the erosion control technical standards of the manual and in accord with the erosion and stormwater quality control plan approved by the City, if required.
- I. All temporary erosion control facilities including BMPs and all permanent facilities intended to control erosion of any earth disturbance operations, shall be installed as defined in the approved plans and the manual and maintained throughout the duration of the earth disturbance operation. The installation of the first level of temporary erosion control facilities and BMPs shall be installed and inspected by the City Engineer prior to any earth disturbance operations taking place.
- J. Any earth disturbance shall be conducted in a manner to effectively reduce accelerated soil erosion and resulting sedimentation.
- K. All earth disturbances shall be designed, constructed and completed so that the exposed area of any disturbed land shall be limited to the shortest practical period of time.
- L. All work and earth disturbance shall be done in a manner that minimizes pollution of any on site or off site waters, including wetlands.
- M. Suspended sediment caused by accelerated soil erosion shall be minimized in runoff water before it leaves the site of the earth disturbance.
- N. Any temporary or permanent facility designed and constructed for the conveyance of stormwater around, through or from the earth disturbance area shall be designed to limit the discharge to a nonerosive velocity.
- O. Temporary soil erosion control facilities shall be removed and earth disturbance areas graded and stabilized with permanent soil erosion control measures pursuant to the standards and specifications prescribed in the manual, and in accord with the permanent erosion control features shown on the approved erosion and stormwater quality control plans, if required.
- P. Soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within twenty one (21) calendar days after final grading or final earth disturbance has been completed. Disturbed areas and stockpiles which are not at final grade but will remain dormant for longer than thirty (30) days shall also be mulched within twenty one (21) days after interim grading. An area that is going to remain in an interim state for more than sixty (60) days shall also be seeded. All temporary soil erosion control measures and BMPs shall be maintained until permanent soil erosion control measures are implemented.
- Q. No person shall cause, permit, or contribute to the discharge into the municipal stormwater drainage system pollutants that could cause the City of Colorado Springs to be in violation of its Colorado discharge permit system Municipal stormwater discharge permit.

- R. The owner, site developer, contractor and/or their authorized agents shall be responsible for the removal of all construction debris, dirt, trash, rock, sediment and sand that may accumulate in the storm sewer or other drainage conveyance system and stormwater appurtenances as a result of site development.
- S. No person shall cause the impediment of stormwater flow in the flow line of the curb and gutter, including the temporary or permanent ramping with materials for vehicle access.
- T. Individuals shall comply with the "Colorado water quality control act"<sup>2</sup>, and "clean water act" (33 USC section 1344), regulations promulgated, certifications or permits issued, in addition to the requirements included in the manual. In the event of conflicts between these requirements and water quality control laws, rules or regulations of other Federal or State agencies, the more restrictive laws, rules or regulations shall apply.
- U. The quantity of materials stored on the project site shall be limited, as much as practical, to that quantity required to perform the work in an orderly sequence. All materials stored on site shall be stored in a neat, orderly manner, in their original containers, with original manufacturers' labels. Materials shall not be stored in a location where they may be carried by stormwater runoff into a State water at any time.
- V. Spill prevention and containment measures shall be used at storage and equipment fueling and servicing areas to prevent the pollution of any State waters, including wetlands. All spills shall be cleaned up immediately after discovery or contained until appropriate cleanup methods can be employed. Manufacturer's recommended methods for spill cleanup shall be followed, along with proper disposal methods.
- W. Fill is prohibited in the 100-year floodplain as defined by either FEMA issued Flood Insurance Rate Maps (FIRMs), or by City approved drainage basin planning studies (DBPSs), and as determined by the City Engineer if conflicts exist between the two (2) documents. Exceptions to this prohibition include:
1. Fill that is consistent with the recommended channel improvements of an approved DBPS and is approved by FEMA with a conditional letter of map revision (CLOMR) and/or a letter of map revision (LOMR), as appropriate.
  2. Fill that is in compliance with an approved development plan and a floodplain development permit.
  3. Fill that is part of an approved utility and/or public works project, and is permitted by the Floodplain Administrator and other appropriate agencies having jurisdiction over public waters. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 07-180; Ord. 08-44)

### **7.7.1506: NUISANCE TO THE PUBLIC HEALTH, SAFETY AND WELFARE**

**DECLARED:**  

The City Engineer, after inspection, may declare a site to be a nuisance to the public health, safety

and welfare when any one of the following conditions are met: a) grading is determined to be dangerous, as defined in section [7.7.1502](#) of this part; or b) grading or any land disturbance is taking place without a properly signed and accepted grading plan and/or erosion and stormwater quality control plan, if required by this chapter; or c) the grading plan and/or erosion and stormwater quality control plan is not implemented per the signed and accepted plan or is insufficient to protect public safety, property or water resources. A nuisance to the public health, safety and welfare shall be abated in accord with the requirements of the City Engineer, which may include, but are not limited to, submittal and implementation of a new or revised grading plan and/or erosion and stormwater quality control plan prepared by a registered professional engineer licensed in the State of Colorado. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.1507: INSPECTIONS:**

- A. The City Engineer may enter upon any property at reasonable times to conduct inspections of grading, erosion and stormwater quality control operations to determine compliance with City Code requirements, policies and procedures and to carry out duties in the enforcement of this part, including abatement of violations. In the event the owner of any property within the City refuses to permit entry to the City Engineer when entry is sought pursuant to this part, or should permission to enter the property otherwise not be obtainable from the owner, the City Engineer may make application to any Judge of the Municipal Court of the City for the issuance of a warrant to inspect the property or carry out other duties, including the abatement of violations. Sworn application for entry and inspection shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of the requirements of this part exists on the property, or that a violation in fact exists and must be abated. Any warrant issued shall command the owner to permit entry to the City Engineer or representative for the purposes stated in the application.
- B. The property owner or the property owner's designated agent shall perform regular inspections of all grading, erosion control and stormwater quality control operations in accord with the inspection procedures outlined in the manual or as revised on the grading plan and/or erosion and stormwater quality control plan. All inspections shall be documented in written form and shall be made available to the City Engineer upon request. The individual performing the inspections must be certified in a City approved inspection training program. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.1508: COMMENCEMENT OF CORRECTION PROCEEDINGS:**

Whenever the City Engineer has inspected or caused to be inspected any grading or land disturbance and has declared a nuisance to the public health, safety and welfare or if the City Engineer has determined noncompliance with this part, the City Engineer shall cause enforcement measures and/or other remedies to be undertaken. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1509: ENFORCEMENT MEASURES AND REMEDIES:**

The City Engineer shall have enforcement measures and remedies, including, but not limited to, those listed below, available with respect to declaring a nuisance to the public health, safety and welfare or determining noncompliance with this part:

- A. The City Engineer shall have the authority to effectuate the abatement of the nuisance or compliance through informal meetings or conversations resulting in a verbal agreement.



- B. The City Engineer shall issue a letter of noncompliance to the property owner, developer and/or contractor that contains a description of the measures required to eliminate the nuisance or noncompliance and a date by which these measures must be implemented.
  
- C. If an imminent and substantial hazard exists that jeopardizes public safety, property and/or water resources, including water quality, the City Engineer may issue an immediate stop work order and/or take emergency actions to abate or minimize the hazard at the full expense of the record owner of the property.
  
- D. The City Engineer may issue a stop work order for the entire site or a specified portion of the site for the purpose of preventing any adverse impacts or minimizing additional adverse impacts. The City Engineer may specify allowable work in order to eliminate the nuisance or bring the site into compliance.
  
- E. The City Engineer may revoke the grading permit and/or the erosion and stormwater quality control permit and require a resubmittal, approval and implementation of a new or revised grading plan and/or erosion and stormwater quality control plan.
  
- F. The City Engineer may issue a notice and order ordering the elimination of the nuisance and/or noncompliance by a specified date based on the nature of the violation. If compliance with the notice and order is not achieved by the deadline, the City Engineer may proceed with abatement as authorized in this part.
  
- G. The City Engineer may ask the City Attorney to initiate a civil action in the District Court for injunctive relief to abate the violations.
  
- H. The City Engineer may request issuance of a Municipal Court summons for violations of this part.
  
- I. Nothing in this chapter shall be construed to preclude the City Engineer from seeking other enforcement actions or remedies in addition to or in lieu of the remedies granted by this part. Enforcement actions or remedies provided in this part shall be cumulative and in addition to any other remedies which may be available to the City Engineer. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

#### **7.7.1510: NOTICE AND ORDER TO CORRECT:**

Whenever the City Engineer commences abatement proceedings by filing a written notice and order, the notice and order shall include:

- A. The street address and a description sufficient for identification of the property upon which the violation, nuisance or noncompliance is located.

- B. A statement of the asserted violation, nuisance or noncompliance relating to this part.
- C. A statement of the action required to be taken and/or the date or time period by which the violation must be abated or otherwise corrected.
- D. A statement advising that if any required corrective measures are not commenced within the time specified, the City Engineer may proceed to cause the corrective measures to be undertaken and charge the corrective measures against the property or its owner.

E. Statements advising:

1. That any person having any record title or legal interest in the property may appeal from the notice and order directly to the Grading Board of Appeals<sup>3</sup> provided the appeal is made in writing and filed with the City Engineer within ten (10) days from the date of service of the notice and order; and
2. That failure to appeal will constitute a waiver of all right to a hearing and determination of the matter. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

**7.7.1511: SERVICE OF NOTICE AND ORDER:**  

- A. To Whom Made: The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, or agent of the owner, and posted on the property. Failure of the City Engineer to serve any person required to be served shall not invalidate any proceedings as to any other person duly served or relieve any person from any duty or obligation imposed by the provisions of this part.
- B. Method Of Service: Service of the notice and order shall be made either personally or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each owner or agent of the owner at the address which appears on the assessment roll of the County or is known to the City Engineer. If no address of any person so appears or is not known to the City Engineer, then a copy of the notice and order shall be mailed, addressed to the person, at the address of the real property involved in the proceedings. Failure of any person to receive notice shall not affect the validity of any proceedings taken under this part. Service by certified mail in the manner provided shall be effective on the date of mailing.
- C. Proof Of Service: Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the City Engineer. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

**7.7.1512: GRADING BOARD OF APPEALS; PROCEDURES:**  

- A. Board Created: A board, to be known as the Grading Board of Appeals, and referred to throughout this part as the Grading Board, is hereby established. The City/County Subdivision

Storm Drainage Board shall serve as the Grading Board and perform all actions of the Grading Board as set forth in, and in accord with, this part.

B. Authority Of The Board: The Grading Board will hear all appeals of the notice and order from the City Engineer, and at the conclusion of the hearing on the appeal will decide whether to modify, affirm or reverse the decision and requirements of the City Engineer.

In hearing appeals, the Grading Board may make reasonable interpretations of the provisions of this part.

C. Appeal And Hearing Procedures:

1. Any person served may appeal from any notice and order any action of the City Engineer by filing a written appeal with the Grading Board at the office of the City Engineer.
2. The written appeal shall be filed within ten (10) days after the date of service of the notice and order. The appeal shall include:
  - a. The names, official mailing addresses and signatures of all parties named as appellants.
  - b. A brief statement setting forth the legal interest of each of the appellants in the land involved in the notice and order.
  - c. A brief statement, in ordinary and concise language, of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant. The appellant must substantiate the following:
    - (1) Identify the specific City Code provisions which are in dispute.
    - (2) Show that the City Engineer's decision is incorrect because of one or more of the following:
      - (A) It was against the express language of the City Code; or
      - (B) It was against the express intent of the City Code; or
      - (C) It is unreasonable; or
      - (D) It is erroneous; or
      - (E) It is clearly contrary to law.
  - d. A brief statement, in ordinary and concise language, of the relief sought and the reasons why it is claimed the protested order should be reversed, modified or otherwise set aside. The appellant must identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits to the community, including the general health, safety and welfare.

3. If all required appeal information is not provided, the City Engineer will notify the appellant that the appeal will not be scheduled until all required information is received.
4. The City Engineer shall provide written notice to the appellant of the time, date and place of the hearing on the appeal. The hearing date shall not be less than ten (10) days nor more than thirty (30) days from the date the appeal was received at the office of the City Engineer. A hearing notice shall also be posted on or adjacent to the affected property by the appellant or a designated representative at least ten (10) days prior to the date of the hearing. The appellant or designated representative shall also sign an affidavit stating the property was properly posted in accord with the posting requirements of the City Engineer. The completed affidavit must be received by the City Engineer at least three (3) days prior to the day of the hearing, or the hearing will be canceled.
5. The hearing on the appeal will only consider those matters or issues specifically raised by the appellant in the written appeal.
6. A record of the entire proceeding shall be made by the City Engineer by tape recording or by any other means of permanent recording determined to be appropriate. A transcript of the proceedings shall be made available to all parties upon request and upon payment of a transcript fee established by the City Council.
7. The Grading Board shall have the authority to make and adopt rules and regulations governing procedures before the Grading Board. However, Colorado Rules of Evidence shall not apply at the hearing. The City Engineer and appellants will have the following rights:
  - a. To call and examine witnesses on any relevant matter or issue; and
  - b. To introduce documents or other physical evidence; and
  - c. To cross examine opposing witnesses on any relevant matter or issue; and
  - d. To impeach any witness regardless of which party first called them to testify; and
  - e. To rebut the evidence against them; and
  - f. To represent themselves or to be represented by a licensed Colorado attorney. The City Engineer shall be represented by the Office of the City Attorney.
8. At the conclusion of the hearing on appeal, the Grading Board may modify, affirm or reverse the decision or requirements of the notice and order.
9. Any appellant who is aggrieved by the decision of the Grading Board may appeal that decision to the courts of Colorado in accord with the Colorado Rules of Civil Procedure, rule 106(a)(4), as now existing or hereinafter amended.

D. Liability Of Grading Board: Members of the Board acting for the City in good faith and without malice for the City in the discharge of their duties, shall not hereby render themselves personally liable, and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required, or by reason of any act or omission related to the discharge of their duties. Any suit brought against a member or members of the Board, due to an act or omission performed by them in the discharge of their duties, shall be defended by

the City to the final termination of the proceedings. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44; Ord. 10-53)

### **7.7.1513: EFFECT OF FAILURE TO APPEAL:**

The failure of any person to file an appeal in accord with the provisions of section [7.7.1512](#) of this part shall constitute a waiver of the right to a hearing and adjudication of all or a portion of the notice and order, or any portion thereof. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1514: NO STAY OF ORDER DURING APPEALS:**

Any stop work order or notice and order issued by the City Engineer shall be in effect from the time issued. The notice and order or stop work order shall be in effect and remain in effect during the pendency of any appeal. Failure to comply with a stop work order or notice and order shall be a violation of the City Code regardless of whether an appeal has been filed or is pending before the Grading Board or the courts of Colorado. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1515: ENFORCEMENT OF ORDER AND COMPLIANCE WITH THE CITY CODE:**



A. A stop work order or notice and order issued by the City Engineer shall be in effect from the time issued. Any failure, neglect, or refusal to obey or comply with a notice and order or a stop work order shall be a violation of the City Code punishable by up to ninety (90) days in jail, a fine of not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00) or a combination thereof. Each day in violation of a stop work order or notice and order shall be deemed a separate offense under this section.

B. It shall be unlawful for any property owner or other person to conduct grading, erosion or stormwater quality control activities:

1. If a stop work order or notice and order has been issued by the City Engineer, except for specific grading, erosion or stormwater quality control activities allowed as a part of the stop work order or notice and order;
2. Without an approved grading plan, if required under this part;
3. Without an approved erosion and stormwater quality control plan, if required under this part;
4. In violation of subsection [7.7.1505](#)B, C, Q or T of this part.

Any violation of this subsection shall be a violation of the City Code punishable by up to ninety (90) days in jail, a fine of not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00) or a combination thereof. Each day in violation shall be deemed a separate offense under this section. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

### **7.7.1516: ACCOUNTING OF EXPENSES/BILLING OF PROPERTY OWNER:**

The City Engineer shall keep an itemized account of the expenses incurred by the City in correction of any nuisance to the public health, safety and welfare under this part or any action taken by the

City to meet the requirements of the hillside area overlay zone of this chapter. The City Engineer will then bill the property owner for all costs incurred by the City. Service of the bill shall be made either personally or by mailing a copy of the bill by certified mail, postage prepaid, return receipt requested, to each property owner at their address as it appears on the tax records of the County or as known to the City Engineer. If full payment is not received within thirty (30) days of receipt of bill (or 30 days from mailing if no return receipt received), the City Engineer will ask the City Clerk to schedule a hearing before City Council on charges to be made against the property owner or the property. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

#### **7.7.1517: SETTING OF HEARING:**

The City Clerk shall fix the time, date and place for hearing the charges as billed by the City Engineer, and any protests or objections to the charges. The City Clerk shall cause notice of the hearing to be served by certified mail, postage prepaid, return receipt requested, addressed to the property owner as their name appears on the tax records of the County Assessor, if such so appears, or as known to the Clerk. Notice shall be given at least ten (10) days prior to the date set for the hearing, and shall specify the day, hour and place when City Council will hear and pass upon the charges billed by the City Engineer, together with any objections or protests which may be filed in accord with the provisions of section [7.7.1518](#) of this part. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

#### **7.7.1518: PROTESTS AND OBJECTIONS:**

Any property owner affected by the proposed charge may file written protests or objections with the City Clerk. The protest or objection must be received by the City Clerk at least the day before the hearing. Each protest or objection must contain a description of the property and the grounds of the protest or objection. The City Clerk shall endorse on every protest or objection the date it was received and shall present the protest or objections to the City Council at the time set for the hearing. No other protests or objections shall be considered. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

#### **7.7.1519: HEARING ON REPORT, PROTEST:**

Upon the day and hour fixed for the hearing, the City Council shall hear and pass upon the charges as billed by the City Engineer together with any objections or protests. The Council may make revisions, corrections and modifications to the charges it may deem just. The decision of the City Council on the charges, and on all protests or objections shall be final and conclusive. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

#### **7.7.1520: PERSONAL OBLIGATION OR SPECIAL ASSESSMENT:**

The City Council may order that a charge be made a personal obligation of the property owner or assess the charge against the property involved.

- A. Personal Obligation: If the City Council orders that the charge be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the City by use of all appropriate legal remedies.
- B. Special Assessment: If the City Council orders that the charge be assessed against the property, it shall confirm the assessment roll, and the assessment shall then constitute a special assessment against the property, and shall be collected in the same manner as any other special assessment of the City. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1521: CONTEST ASSESSMENT:**

The validity of any assessment made under the provisions of this part shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment roll as provided. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after entry of the judgment. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1522: LIEN OF ASSESSMENT:**

A. Priority: Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The liens shall be subordinate to all existing special assessment liens previously imposed upon the same property, and shall be paramount to all other liens except for State, County and municipal liens with which it shall be upon a parity. The liens shall continue until the assessment and all interest due and payable are paid.

B. Interests: All assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of one percent (1%) per month from and after the date. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1523: REPORT TO ASSESSOR AND TAX COLLECTOR:**

After confirmation of the report, certified copies of the assessment shall be given to the County Treasurer on or before October 15. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1524: COLLECTION OF ASSESSMENT:**

The amount of the assessment shall be collected at the same time and in the same manner as general taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for general municipal taxes. All laws applicable to the levy, collection and enforcement of general municipal taxes shall be applicable to the assessment. (Ord. 96-44; Ord. 01-42; Ord. 02-130)

### **7.7.1525: REPAYMENT OF CORRECTION FUND:**

All money received by payment of the charge or assessment or from the sale of property at foreclosure sale shall be paid to the Chief Financial Officer who shall credit the same to the grading correction fund. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 11-19)

### **7.7.1526: RESPONSIBILITY AND LIABILITY:**

Any person who engages in grading, erosion control and/or stormwater quality control activities is declared to be totally responsible to those persons who may have been endangered or, in fact, does endanger, as a result of not having or not following a grading plan and/or an erosion and stormwater quality control plan or following an incorrect grading plan and/or an erosion and stormwater quality control plan. (Ord. 96-44; Ord. 01-42; Ord. 02-130; Ord. 08-44)

## **7.7.1527: INSPECTIONS, MAINTENANCE, AND ENFORCEMENT OF PERMANENT STORMWATER BEST MANAGEMENT PRACTICES:**

A. Responsible Party Inspection And Maintenance Required: Permanent stormwater quality BMPs, a requirement of section [7.7.906](#) of this article, shall be inspected and maintained by the responsible party, in accord with the provisions of this section and in accord with the measures outlined in the most recent version of the DCM, volume II. Noncompliance with those measures may result in issuance of a notice of violation (NOV). Inspection requirements do not apply to BMPs constructed prior to June 1, 2008.

B. PE Certification: All private and public permanent stormwater quality BMP construction shall be certified in compliance with the approved construction plans and specifications by a professional engineer (PE) licensed in the State of Colorado, prior to release of the erosion and stormwater quality financial assurance.

C. Inspection And Maintenance Plan; Maintenance Agreement:

1. An inspection and maintenance plan (IM plan) shall be developed by the owner concurrently with the design of the facility and submitted with the erosion and stormwater quality control plan for approval by the City Engineer. The IM plan shall specify the responsible party and those responsible for inspection and maintenance (i.e., property owner, homeowners' association), owner and responsible party contact information, facility address, list recommended inspection and maintenance activities and frequencies, access, specify approximate annual maintenance costs, and specify responsibilities for financing maintenance. The responsible parties shall perform inspections of stormwater BMPs on a periodic basis in accordance with the approved IM plan, document the inspection(s), and submit an annual inspection report to the City Engineer, as outlined in the IM plan.
2. The City shall provide a template of a maintenance agreement for completion by the responsible party. A signed maintenance agreement shall be submitted by the owner to City Engineering. The approved maintenance agreement shall be recorded with deed records to ensure that the maintenance agreement is bound to the property in perpetuity. The City Engineer will not release the erosion and stormwater quality financial assurance until the maintenance agreement is recorded at the responsible party's expense.

D. Inspection By City:

1. The City Engineer may enter upon the subject private or public property at reasonable times to conduct on site inspections or maintenance or to confirm the information in the annual inspection reports submitted by responsible party. If maintenance activities are not completed in a timely manner or as specified in the approved plan or if there exists an immediate danger to public health or safety as a result of the BMP, the City Engineer, other City staff under the direction of the City Engineer, or a contractor engaged by the City, may enter upon the subject private or public property and complete the necessary maintenance and/or repair at the responsible party's expense.
2. If deficiencies are noted during City inspections, the City will notify the owner by U.S. mail, first class, postage prepaid with a certificate of mailing, at the property's legal address listed in the records of the El Paso County Assessor's Office. The responsible party shall have twenty (20) business days or other time frame mutually agreed to between the City Engineer and the responsible party to correct



the deficiencies. The City Engineer will then conduct a follow up inspection to verify the repairs. If repairs are not undertaken or are not found to be done properly, the City Engineer may complete the necessary maintenance at the responsible party's expense.

- E. Notice Of Violation: In the event that the IM plan annual inspection report is not submitted by the responsible party to the City Engineer, the City Engineer will notify the owner of the missed inspection report by U.S. mail, first class, postage prepaid with a certificate of mailing, at the property's legal address listed in the records of the El Paso County Assessor's Office. The responsible party will have twenty (20) business days to complete the inspection and mail it to the City Engineer. A notice of violation (NOV) may be issued by the City Engineer if an inspection is not submitted after the twentieth business day. The notice will include a date which will be identified as the "date of notice of violation" for purposes of appeal rights.
- F. Appeal: Any person receiving a notice of violation under this section may appeal the determination of the City Engineer to the Director of Public Works or the Director's designee (the "Director"). The notice of appeal must be received by the Director within ten (10) days from the date of the notice of violation. A hearing on the appeal before the Director shall take place within fifteen (15) days from the date the City received the timely notice of appeal. An appeal of the Director's determination can be made to the Mayor. The notice of appeal must be received by the Mayor within ten (10) days from the date of the Director's determination. A de novo hearing on the appeal before the Mayor shall take place within fifteen (15) days from the date the Mayor received a timely notice of appeal of the Director's determination. The decision of the Mayor shall be final.
- G. Charging Cost Of Abatement; Liens: Within thirty (30) days after maintenance and/or repair of the BMP by City, the City Engineer shall notify in writing the property owner of the cost of repair, including administrative costs. The City Engineer's notice shall include an "official notice date". The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within fifteen (15) days of the "official notice date". The City Clerk shall set the matter for public hearing by the City Council and shall notify the appellant of the date of the hearing. The decision of the City Council shall be set forth by resolution and shall be final. In addition to any lien placed upon real property, the cost of abatement, including administrative costs, shall be deemed a joint and severable personal debt of the property owner. If the amount due is not paid within ten (10) days of the decision of the City Council, or the expiration of the time in which to file an appeal to City Council under this section if no appeal is filed, the charges shall become a special assessment against the property and shall constitute a priority lien on the property for the amount of the assessment. This lien shall be deemed in priority of, and superior to, any and all liens then existing on the property or later levied upon the property. A copy of the resolution shall be filed with the County Assessor and the County Treasurer so that the Assessor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the full amount of the assessment on the bill for taxes levied against the parcel of land. (Ord. 08-44; Ord. 11-19)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) See section [7.7.1504](#) of this part.

[Footnote 2:](#) CRS §25-8-101 et seq.

[Footnote 3:](#) See section [7.7.1512](#) of this part.

## **PART 16 OFF-STREET BICYCLE PATH LAND DEDICATIONS**

### **7.7.1601: POLICY AND PURPOSE:**

### **7.7.1602: DEDICATION OF LAND FOR OFF-STREET BICYCLE PATHS:**

#### **7.7.1601: POLICY AND PURPOSE:**

It is hereby declared to be the policy of the City that subdividers of land shall provide land for off-street bicycle paths in the recommended network of the bicycle plan. It is the purpose of this part to require the dedication of land to fulfill the needs set forth in the bicycle plan, as adopted by City Council and all subsequent amendments thereto, as contained in the Comprehensive Plan. (Ord. 96-44; Ord. 01-42)

#### **7.7.1602: DEDICATION OF LAND FOR OFF-STREET BICYCLE PATHS:**

A. Bicycle Paths Located Adjacent To Arterial Streets: Where an off-street bicycle path is to be located adjacent to a major street, as shown by the bicycle plan, the subdivider shall be required to dedicate an amount of right of way sufficient to accommodate the bicycle path as indicated in the traffic engineering policy and design standards.

B. Bicycle Paths Not Located Adjacent To Arterial Streets: Where an off-street bicycle path is to be located not adjacent to a major street, as shown by the bicycle plan, the subdivider shall be required to dedicate an amount of right of way and/or provide a public access easement such that a fourteen foot (14') wide strip of land is available for the placement of a bicycle path. The fourteen foot (14') wide strip of land may be comprised of a combination of available utility or drainage right of way or easement, additional dedicated right of way, and public access easement. The Executive Director and City Engineer shall determine the amount of utility or drainage right of way or easement available for this purpose. In no instance shall bicycle path improvements conflict with utility or drainage facilities. (Ord. 96-44; Ord. 98-185; Ord. 01-42)

## **PART 17 COMMERCIAL MINERAL DEPOSITS AND EXTRACTION**

### **7.7.1701: STATEMENT AS TO THE EXTRACTION OF COMMERCIAL MINERAL DEPOSITS:**

### **7.7.1702: MINING OPERATIONS:**

### **7.7.1703: MASTER PLAN FOR EXTRACTION:**

### **7.7.1704: MAPS AND STUDIES ADOPTED:**

## **7.7.1701: STATEMENT AS TO THE EXTRACTION OF COMMERCIAL MINERAL DEPOSITS:**

As a consideration for land development, the City Council, Planning Commission and other applicable boards and commissions of the City shall consider before approving any land development those maps and studies adopted by the City Council relating to the extraction and preservation of commercial mineral deposits. (Ord. 96-44; Ord. 01-42)

## **7.7.1702: MINING OPERATIONS:**

Any mining activity in the City for the extraction of mineral deposits shall be conducted only in accord with section [7.3.205](#) of this chapter. (Ord. 96-44; Ord. 01-42)

## **7.7.1703: MASTER PLAN FOR EXTRACTION:**

The master plan for extraction of commercial mineral deposits within the City shall be conducted pursuant to section [7.3.205](#) of this chapter and the preservation of commercial mineral deposits shall be considered as an element of the land development plan of the City. (Ord. 96-44; Ord. 01-42)

## **7.7.1704: MAPS AND STUDIES ADOPTED<sup>1</sup>:**

The maps and studies dated February 1975, done by John H. Lewis, are hereby adopted as the official commercial mineral deposit maps for the City. (Ord. 96-44; Ord. 01-42)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1](#): The maps referred to are 8 in number and are titled: El Paso County\_land and gravel pits; El Paso County\_location of sand and gravel samples; El Paso County\_potential gravel resources; El Paso County\_sand and fine aggregate resources; El Paso County\_potential refractory clay deposits; El Paso County\_strippable coal resources; El Paso County\_potential resource deposits; El Paso County\_potential quarry aggregate resources.

# **PART 18 ACQUISITION AND DISPOSITION OF REAL PROPERTY INTERESTS**

## **[7.7.1801: PAYMENT OF TAXES REQUIRED:](#)**

## **[7.7.1802: ACCEPTANCE BY CITY COUNCIL:](#)**

## **[7.7.1803: COMPLIANCE WITH MANUAL:](#)**

## **[7.7.1804: DISPOSITION OF CITY OWNED REAL PROPERTY:](#)**

## **[7.7.1805: CONVEYANCES NOT REQUIRING COUNCIL APPROVAL:](#)**

## **[7.7.1806: CITY OWNED PROPERTY FOR THE BENEFIT OF UTILITIES:](#)**

## **[7.7.1807: RULES, REGULATIONS AND PROCEDURES:](#)**

## **7.7.1801: PAYMENT OF TAXES REQUIRED:**

Except as hereinafter set forth, no deed, dedication or conveyance of land or any interest in land to the City shall be effective unless all taxes owing on such land or interest thereon are paid by the grantor to the date of conveyance. The grantor may tender to the City a pro rata share of the current taxes to the date of conveyance based upon the total taxes payable in the year of conveyance at the time of tendering the deed or conveyance. In its discretion, the City may expressly waive payment of taxes by the grantor in the event of:

- A. A negotiated purchase of the land in which payment of all current taxes by the City is a consideration of the purchase; or
- B. Where the deed or conveyance is a true gift to the City and not in payment of or in lieu of any required fee or obligation owing to the City. (Ord. 96-44; Ord. 01-42)

**7.7.1802: ACCEPTANCE BY CITY COUNCIL:**  

No deed, dedication or conveyance of land or any interest in land to the City for any purpose shall be effective unless expressly accepted or authorized by a City Council resolution or accepted by the City's Real Estate Manager in accord with approved City plans, projects or policies. Acceptance or authorization shall be subject to adequate title review, proration and payment of taxes, environmental review or audit and other conditions as appropriate. (Ord. 01-42)

**7.7.1803: COMPLIANCE WITH MANUAL:**  

The City and its Colorado Springs Utilities, MHS Enterprise (other than with respect to any real property transaction under or arising out of the Memorial Health System Affiliation), the municipal enterprises and purchasers of City owned real property interests shall follow the procedures set forth in the "Procedure Manual For The Acquisition And Disposition Of Real Property Interests" (the "manual") for the acquisition or disposition of real property interests by deed or other conveyancing document. (Ord. 07-135; Ord. 15-65)

**7.7.1804: DISPOSITION OF CITY OWNED REAL PROPERTY:**  

- A. If the Council has found or determined that City owned real property is unneeded for the proper conduct of City affairs, the City's Real Estate Services Manager shall cause the property to be valued in accord with the manual. Upon determination of value, the City's Real Estate Manager shall advertise the property for sale in accord with the provisions of the manual.
- B. If there is only one logical, potential purchaser of the City owned property, City Council may by motion authorize the sale of the property to the identified buyer subject to appropriate terms, conditions and the provisions of the manual. (Ord. 07-135)

**7.7.1805: CONVEYANCES NOT REQUIRING COUNCIL APPROVAL:**  

- A. Vacation of City owned easements<sup>1</sup> shall not require City Council approval so long as the vacation is conducted in accord with the provisions of the manual.

B. Whenever the Council has approved the conveyance of a parcel of land that fails by reason of a technical imperfection or error or by reason of failure of the conveyance to perfectly carry out the intention of the Council, the Mayor is authorized, without further Council action, to execute and the City Clerk to attest another deed or other conveyancing document in the same manner and intent as approved by the prior Council. (Ord. 07-135)

**7.7.1806: CITY OWNED PROPERTY FOR THE BENEFIT OF UTILITIES:**  

Matters involving Utilities land acquisitions, conveyances and sale of excess property are subject to City Charter section 6-80, the manual and Utilities Board policies or bylaws. (Ord. 07-135)

**7.7.1807: RULES, REGULATIONS AND PROCEDURES:**  

A. Any proposed amendments to the manual shall be reviewed and finally approved by City Council resolution.

B. The City's Real Estate Services Manager is authorized, with the City Attorney's counsel, to promulgate and adopt reasonable rules, regulations and standard operating procedures regarding the administration and operation of the Real Estate Services Office and management of the City's real property assets. Additional rules and regulations may be adopted as necessary to implement applicable Federal and State laws. Any rules or regulations adopted by the manager shall be available for public inspection in the Real Estate Services Office.

C. The City and its Colorado Springs Utilities, MHS Enterprise (other than with respect to any real property transaction under or arising out of the Memorial Health System Affiliation), the municipal enterprises, the general public and purchasers and sellers of City owned real property interests shall abide by all rules and regulations promulgated by the Real Estate Services Manager or approved by City Council resolution.

D. The Mayor, the Chief Executive Officer of MHS Enterprise and the Chief Executive Officer of Colorado Springs Utilities may choose to establish supplemental administrative procedures, but those supplemental administrative procedures shall not supersede or substitute for the procedures and practices contained in the manual. Real Estate Services will support and comply with any supplemental administrative procedures to the extent those supplemental administrative procedures do not conflict with the provisions of the manual. (Ord. 07-135; Ord. 11-19; Ord. 15-65)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) Vacation of right of way shall be in accord with part 4 of this article.

# Article 8 FLOODPLAIN MANAGEMENT

## PART 1 GENERAL PROVISIONS

### 7.8.101: FLOODPLAIN MANAGEMENT:

### 7.8.102: AMENDMENTS TO RBC 313:

### 7.8.103: WARNING AND DISCLAIMER OF LIABILITY:

### 7.8.104: PENALTIES FOR NONCOMPLIANCE:

### **7.8.101: FLOODPLAIN MANAGEMENT:**

Floodplain management within the City shall be in accordance with section RBC 313 of the Building Code. (Ord. 96-44; Ord. 01-42; Ord. 05-135)

### **7.8.102: AMENDMENTS TO RBC 313:**

Section RBC 313 of the Building Code adopted by section [7.10.102](#) of this chapter, is subject to the following modifications, additions, or deletions set forth below:

A. RBC 313.6, Definitions. Amend this section as follows:

Appeal: A request for a review of the Floodplain Administrator's decision or interpretation of any provision of this section or for a review of the Drainage Board's decision on appeal, grant of relief or interpretation of any of the provisions of this part.

B. RBC 313.17.1, Appeal Board. This section is deleted and replaced with the following:

"RBC 313.17.1, Appeals.

1. As established by the City, Drainage Board shall hear and decide appeals of decisions of the Floodplain Administrator (FPA) when it is alleged there is an error in any requirement, decision or determination made by the FPA in the enforcement or administration of this section.
2. Any person aggrieved by a decision of the FPA may appeal to Drainage Board, provided a written notice of appeal, stating the grounds for appeal, is filed with the City Engineer within thirty (30) days of the date of the FPA's decision. Drainage Board shall hear the appeal at the next available meeting, but not less than fourteen (14) days after receipt of the notice of appeal.
3. Drainage Board shall conduct a public hearing on the appeal and shall consider the factors set forth in section 5, below. At the conclusion of the hearing, Drainage Board shall make appropriate findings and determine whether the FPA's decision shall stand, be overturned or modified. Unless appealed

to City Council, the Board's decision shall be considered final agency action for all purposes under Colorado law.

4. Those aggrieved by the decision of the Drainage Board may appeal the decision to City Council, provided that a notice of appeal, stating the grounds for appeal, is filed with the City Clerk within ten (10) days of the date of Drainage Board's decision. The City Clerk, upon receiving a perfected appeal, shall forward the record of the Drainage Board to City Council, and the matter shall be set for a public hearing at the next available City Council meeting. City Council may hear the appeal *de novo* or may limit the hearing to the issues identified in the notice of appeal. At the conclusion of the public hearing, City Council shall determine whether there is substantial evidence in the record to support the Drainage Board's decision, and if so, then the decision must be affirmed. If there is not substantial evidence in the record to support the Board's decision, the Council may overturn the decision or modify it.
5. In passing upon appeals of the FPA's decision, Drainage Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of the section, and:
  - 5.1. The danger that materials may be swept onto other lands to the injury of others;
  - 5.2. The danger to life and property due to flooding or erosion damage;
  - 5.3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 5.4. The importance of the services provided by the proposed facility to the community;
  - 5.5. The necessity to the facility of a waterfront location, where applicable;
  - 5.6. The availability of alternate locations for the proposed use, which are not subject to flooding or erosion damage;
  - 5.7. The compatibility of the proposed use with existing and anticipated development;
  - 5.8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
  - 5.9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 5.10. The expected heights, velocity, duration, rate of use, and sediment transport of the flood waters and the effects of wave action, if applicable, and expected at the site; and
  - 5.11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
6. Upon consideration of the factors listed in section RBC 313.17.1, item 5, Drainage Board may impose conditions on the FPA's decision as it deems necessary to further the purposes of this section.
7. The FPA shall maintain the records of all appeal actions and report any variances to FEMA upon request."

C. RBC 313.17.2, Condition For Variances. This section is deleted and replaced with the following:

"RBC 313.17.2, Conditions For Pre-Construction Variances.

1. Development permits may be issued by the FPA for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or part of the local Historic Preservation District or a locally designated historic landmark, without regard to the procedures set forth in the remainder of this subsection. Infill of vacant lots within the Historic Preservation District may be issued variances provided that the provisions of this section are met. All other variances shall be reviewed and approved by Drainage Board.
2. No application for variances shall be accepted or considered for an existing structure.
3. Drainage Board shall conduct a public hearing on all applications for variance. The FPA shall be given an opportunity to comment on the application and make a recommendation to the Board. The applicant shall be given an opportunity to support the request for variance and respond to any comments by the FPA. The public shall be given an opportunity to comment on the application.
4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances shall only be issued upon Drainage Board's finding that the application substantially complies with the following:
  - 6.1. A showing of good and sufficient cause;
  - 6.2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - 6.3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public as identified in section RBC 313.17.1.5, or conflict with existing local laws or ordinances."
7. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

D. RBC 313.18.5, Subdivision Proposals. This section is amended to read as follows:

"RBC 313.18.5, Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;



3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. FEMA approved base flood elevation data and 100-year floodplain boundaries shall be provided and shown on plat;
5. If subdivision proposals are located within three hundred feet (300') of a zone A floodplain, FEMA approved base flood elevations and boundaries are required to be determined and shown on plat, or provide a floodplain certification letter by a professional engineer or architect licensed by the State of Colorado, stating that "Based on field verified characteristics of the property (topography, etc.), the property is reasonably safe from flooding and to the best of the engineer's knowledge if the 100-year floodplain were studied it would not enter the property in question".  
(Ord. 06-96; Ord. 09-80; Ord. 12-75)

#### **7.8.103: WARNING AND DISCLAIMER OF LIABILITY:**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of flood hazard or uses permitted within such areas will be free from flooding or flood damages. This part shall not create liability on the part of the City, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this section or any administrative decision lawfully made. (Ord. 06-96)

#### **7.8.104: PENALTIES FOR NONCOMPLIANCE:**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violations of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall be subject to penalty as provided in subsections [1.1.201A](#) and B of this Code. (Ord. 06-96)

# Article 9 VESTED PROPERTY RIGHTS

## PART 1 VESTED PROPERTY

**7.9.101: VESTED PROPERTY RIGHTS:**

**7.9.101: VESTED PROPERTY RIGHTS:  **

A. "Vested property right" as used in this section means the right to undertake and complete development and use of property under the terms and conditions of approval at the time of vesting as set out in subsection B of this section.

B. Within the various zone districts of the City vested property rights shall occur at the below listed stages of the land development and shall be subject to any terms and conditions imposed at the time of approval.

**PLANNING PROCESS**

<b><u>Zones</u></b>	<b><u>Final Development Plan<sup>1</sup></u></b>	<b><u>Final Subdivision Plat<sup>2</sup></u></b>
A	X	X
R	X	X
R-1 9000	X	X
R-1 6000	X	X
R-2	X	X
R-4	X	X
R-5	X	X
SU	X	
TND	X	

OR	X	
OC	X	
PBC	X	
C-5	X	X
C-6	X	X
PIP-1	X	
PIP-2	X	
M-1	X	X
M-2	X	X
APD	X	
PUD	X	
MU-NC	X	
MU-CC	X	
MU-R/EC	X	
FBZ	X	X
CU	X (conditional use plan)	
UV	X (use variance plan)	

Notes:

1. See article 5, part 5 of this chapter.
2. See article 7, part 3 of this chapter.

C. Failure to abide by the terms and conditions of the final development plan or final subdivision plan will result in the forfeiture of the vesting of the property.

D. Except in the MU (mixed use) zone districts, the vesting period for a development plan shall be four (4) years as set forth in article 5, part 5 of the Zoning Code. The vesting period for a development plan in the MU-NC, MU-CC and MU-R/EC zone districts shall be six (6) years. The vesting period for a final subdivision plat in any zone district shall be four (4) years from the recordation date.

- E. Vested property rights may be changed upon agreement between the City and affected landowner and also for public health, safety and welfare reasons as such are determined by the City Council in its legislative capacity.
- F. Establishment of vested property rights shall not preclude the application of ordinances, resolutions or regulations which are general in nature and are applicable to property subject to land use regulation by the City.
- G. This section is applicable only to final development plans or final subdivision plats approved after January 1, 1988. (Ord. 96-44; Ord. 01-42; Ord. 03-157; Ord. 04-30; Ord. 09-50)

## PART 2 DEVELOPMENT AGREEMENTS

### [7.9.201: PURPOSE AND INTENT:](#)

### [7.9.202: DEFINITIONS:](#)

### [7.9.203: DEVELOPMENT AGREEMENT REQUIRED:](#)

### [7.9.204: ADMINISTRATION:](#)

### [7.9.205: DEVELOPMENT AGREEMENT:](#)

### **7.9.201: PURPOSE AND INTENT:**

This part applies to development agreements for improvements required by this chapter, including any condition or requirement imposed by any office that administers this chapter. It is in the best interests of the City and the project owners and developers to provide certainty in the review process and to identify necessary improvements and appropriate timing for installation or construction through the use of development agreements. It is the purpose of this part to authorize and permit the City and project owners and developers to enter into development agreements. (Ord. 13-25)

### **7.9.202: DEFINITIONS:**

**ADMINISTRATIVE COSTS:** The amounts incurred to monitor construction of an improvement. Administrative costs are determined by the administrator and include fees for inspection, engineering, planning, contract administration, and similar services. This term does not include the costs of construction.

**ADMINISTRATOR:** The Public Works Director/City Engineer or the administrator's designee.

**CONSTRUCTION:** Any act that changes the physical condition of real property.

**DEVELOPMENT AGREEMENT:** A contract between the City and a project owner or developer which specifies the required public or private improvements, timing and obligations associated with an approved development. A development agreement shall comply with the provisions of section [7.9.205](#) of this part.

**IMPROVEMENT COMPLETION DATE:** The event or specified date by which time construction of an improvement must be complete. The improvement completion date for warranty purposes is, with respect to any specific warranty repair, thirty (30) days after the administrator provides written notice that warranty repairs are required.

**PROPERTY:** All property to be improved as provided by a development plan, grading plan, final drainage report, or any other document issued or approved by the City.

**REQUIRED IMPROVEMENT, OR IMPROVEMENT:**

- A. All on site or off site public or private improvements required by this chapter, including, but not limited to:
1. Curb/gutter, streets, sidewalks, traffic signals, drainage structures, pipes and drainage ponds, bridges and utilities.
  2. Landscaping, including irrigation, fencing and retaining walls.
  3. Grading.
  4. Parking lots.
  5. The installation of erosion control devices for soil stabilization.
- B. Required improvements also include activities and undertakings related to construction required by this chapter including any required provision or filing of:
1. Warranties,
  2. Certifications,
  3. As built plans,
  4. Maintenance and compliance commitments, and
  5. Other documents. (Ord. 13-25)

**7.9.203: DEVELOPMENT AGREEMENT REQUIRED:**  

A development agreement may be required for a development project that requires the installation or construction of required public or private improvements. A development agreement shall be prepared by the City, and entered into between the project owner or developer and the City prior to the installation or construction of the required improvements. (Ord. 13-25)

**7.9.204: ADMINISTRATION:**  

The administrator may execute development agreements, issue notices of deficiency, sign any other documents, and take any other actions required to comply with this part. (Ord. 13-25)

**7.9.205: DEVELOPMENT AGREEMENT:**  

A development agreement shall include the following information:

- A. The project, property and improvements covered by the development agreement;
- B. The term or duration of the development agreement;
- C. The specific date or event after which an improvement becomes a required improvement;
- D. The requirement that a financial assurance must be posted by the date an improvement becomes required;
- E. The amount of each financial assurance;
- F. The specific or determinable improvement completion date or event;
- G. The conditions under which draws on or against the financial assurance will be permitted in the absence of a default, and any administrative costs that must be paid when draws are taken;
- H. The following events of default:
  - 1. The administrator determines that an improvement was not completed by the improvement completion date;
  - 2. A financial assurance is not posted by the date an improvement becomes required;
  - 3. The entity issuing the financial assurance fails to deliver the funds to the City within fourteen (14) days of the date the administrator certifies that an improvement was not constructed by the improvement completion date; and
  - 4. Any other events of default that the parties determine are appropriate to the development agreement; and
- I. Any other terms and conditions the parties determine are appropriate. (Ord. 13-25)

# Article 10

## BUILDING CODE ADMINISTRATION

### PART 1 GENERAL PROVISIONS <sup>1</sup>

#### 7.10.101: TITLE:

#### 7.10.102: CODE ADOPTED BY REFERENCE:

#### 7.10.103: PENALTY PROVISIONS, ADDITIONS, AND MODIFICATIONS:

#### 7.10.104: APPLICABILITY:

#### 7.10.105: INTERPRETATION:

#### 7.10.106: VIOLATIONS:

#### 7.10.107: FAILURE TO OBEY ORDER:

#### 7.10.108: FELONY AND CRIMINAL FRAUD:

#### 7.10.109: CONTRACTOR PENALTY PROVISIONS:

#### 7.10.110: ALTERING, DEFACING OR REMOVING A NUMERIC ADDRESS:

#### 7.10.111: FAILURE TO ABATE A SWIMMING POOL NUISANCE:

#### 7.10.101: TITLE:

There is hereby adopted by reference the edition of the Pikes Peak Regional Building Code, 2017 edition, 2nd Printing, as published by the Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910, as amended, to include: National Electrical Code, 2017 Edition, appearing at 3 CCR 710-1 adopted and effective March 17, 2018; and the Federal Emergency Management Agency (FEMA) new Flood Insurance Rate Maps ("FIRM") and Flood Insurance Study ("FIS") adopted and effective December 7, 2018. Three (3) copies of the Pikes Peak Regional Building Code, 2017 edition, 2nd Printing, are now filed in the Office of the City Clerk and may be inspected during regular business hours. The RBD Code is being adopted as if set out at length. (Ord. 05-135; Ord. 11-34; Ord. 13-6; Ord. 16-23; Ord. 16-121; Ord. 18-15; Ord. 18-121)

#### 7.10.102: CODE ADOPTED BY REFERENCE:

There is hereby adopted by reference the edition of the Pikes Peak Regional Building Code, 2017 edition, 2nd Printing, as published by the Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910, as amended, to include: National Electrical Code, 2017 Edition, appearing at 3 CCR 710-1 adopted and effective March 17, 2018; and the Federal Emergency Management Agency (FEMA) new Flood Insurance Rate Maps ("FIRM") and Flood Insurance Study ("FIS") adopted and effective December 7, 2018. Three (3) copies of the Pikes Peak Regional Building Code, 2017 edition, 2nd Printing, are now filed in the Office of the City Clerk and may be inspected during regular business hours. The RBD Code is being adopted as if set out at length. (Ord. 05-135; Ord. 11-34; Ord. 13-6; Ord. 16-23; Ord. 16-121; Ord. 18-15; Ord. 18-121)

#### 7.10.103: PENALTY PROVISIONS, ADDITIONS, AND MODIFICATIONS:

A. The RBD Code is subject to the following penalty provisions:

**RBC101.8. Violations.** Any person violating the Building Code or any provision of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than ninety (90) calendar days in the City jail or County jail, or both. A separate offense shall be deemed committed for each and every calendar day during which any illegal erection, construction, reconstruction, alteration, maintenance, or use continues. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or remodeled, used or maintained in violation of this Code or of any provision of the Building Code, the City Attorney, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus or abatement to prevent, enjoin, abate or remove any unlawful erection, construction, reconstruction, alteration, remodeling, maintenance or use.

**RBC103.12. Authority To Impose A Fine.** The Building Official may impose an administrative fine in an amount of up to one thousand dollars (\$1,000.00) on any person or entity engaged in any construction consulting work or construction work covered by this Code within the jurisdiction who engages in this work in violation of any provisions of this Code. Appeals to this action may be made as provided for elsewhere in this Code. The Building Official shall make monthly reports of any imposed fines to the Board of Review.

**RBC105.2.3. Emergency Work.** All work performed on an emergency basis, as determined by the Building Official, to maintain an existing service or to maintain an existing installation, building or structure, where the maintenance is necessary to protect life or property, shall not be subject to penalty if application for any required permits is made within seventy-two (72) hours after commencement of the emergency work.

**RBC112.2.5.3. Proof Of Service.** Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official.

**RBC112.3.1. Form Of Appeal.** Any person entitled to service under section RBC112.2.5 of this Code may appeal from any notice and order to any action of the Building Official by filing at the Office of the Building Official within thirty (30) calendar days from the date of the service of the order a written appeal containing:

1. A heading in the words: "Before the Board of Appeals".
2. A caption reading: "Appeal of \_\_\_\_\_," giving the names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement, in ordinary and concise language, of the specific order or action protested, together with any material facts claimed to support the contentions of the applicant.
5. A brief statement, in ordinary and concise language, of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signature of all parties named as appellants, and that, in ordinary and concise language, of the specific order or action protested, together with any material facts claimed to support the



contentions of the applicant.

7. The signature of all parties named as appellants, and their official mailing addresses.

8. The verification (by declaration under penalty of perjury) of all appellants as to the truth of the matters stated in the appeal.

**RBC201.6.6. Felony; Criminal Fraud.** No person or entity convicted by a court having competent jurisdiction of a felony, or for civil or criminal fraud, constructive or actual, for work related to any license issued by this jurisdiction, or for work related to the building trades in any jurisdiction, shall be granted a license or registration, or serve as an examinee for a contractor in this jurisdiction.

**RBC201.10.4. Renewal With Fees.** Failure to renew a license within this forty-five (45) calendar day period after the expiration date of the license will require payment of penalty at fifty percent (50%) of the license fee if renewed within ninety (90) days of the expiration date. After ninety (90) days to one hundred thirty-five (135) days the penalty will be equal to the license fee, after one hundred thirty-five (135) days up to one hundred eighty (180) days the penalty will be equal to twice the license fee. All requests for renewals after one hundred eighty (180) days from the expiration date shall require payment of all fees accrued, re-application, examination, evaluation by the respective committee, and approval by the Board of Review.

## Appendix B

### P. Investigation Fee: Work Without A Permit.

**Investigation.** Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

**Fee.** An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to twice the amount of the permit fee that would be required by this Code if a permit were issued. The payment of such an investigation fee shall not exempt any person from compliance with any provisions of this Code nor from any prescribed by law.

### Q. Re-Inspection Fees:

A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is requested is not complete, when corrections required by a previous inspection have not been made, or when an additional inspection is required for alterations made after completion of initial inspection.

This is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of requesting inspections before the job is ready for such an inspection or re-inspection.

Re-inspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.

In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until such fees have been paid.

B. The RBD Code is subject to the following additions and modifications:

RBC108.2. Add the following to the end:

A fee schedule shall be established by resolution of the City Council.

RBC302.4.1. Section 202.1. Add the following definitions:

**Composition Wood** roofing is a roofing product composed of natural wood fibers and falls within the Underwriters Laboratories (UL) category of formed roofing.

**Solid Wood** roofing products are roofing materials that are defined as "wood shakes", "wood shingles", or "wood shakes and shingles, fire-retardant (treated)". These materials are cellulose based wood products that include non-treated and pressure impregnation by the full-cell vacuum-pressure process with fire retardant chemicals.

RBC302.4.29. Insert a new section as follows:

**Section RBC302.4.29.1. Section 1505.1.** Add the following:

All buildings shall have a minimum roof covering of class B.

Exception: Buildings containing twenty percent (20%) or more of a group R fire area shall have a minimum roof covering of class A excluding solid wood roofing products.

These requirements shall also apply when completely recovering or replacing a roof covering in accordance with section **1511** of the International Building Code, 20 **15** edition, and section RBC104.4 of the Building Code.

RBC302.4.29.2. Table 1505.1. Delete.

RBC303.4.1. Section R202. Add the following definitions:

**Composition Wood** roofing is a roofing product composed of natural wood fibers and falls within the Underwriters Laboratories (UL) category of formed roofing.

**Solid Wood** roofing products are roofing materials that are defined as "wood shakes", "wood shingles", or "wood shakes and shingles, fire-retardant (treated)". These materials are cellulose based wood products that include non-treated and pressure impregnation by the full-cell vacuum-pressure process with fire retardant chemicals.

RBC303.4.61.1 Insert a new section as follows:

**Section RBC303.4.61.1. Section R902.1.** Amend the section as follows:

Delete the second sentence and replace with the following:

One- and two-family dwellings shall have a minimum roof covering of class A excluding solid wood roofing products. Accessory structures shall have a minimum roof covering of class B.

In the third sentence, delete "classes A, B, and C" and replace with "classes A and B".

Add the following to the end of the paragraph:

These requirements shall also apply when completely recovering or replacing a roof covering in accordance with section R90 **8** of the International Residential Code, 20 **15** Edition and section RBC104.4 of the Building Code.

RBC306.2. Amend this section as follows:

**Section RBC306.2. Code Adopted By Reference.** There is hereby adopted by reference the Colorado Plumbing Code adopted by the Department of Regulatory Agencies, Division of Professions and Occupations, Colorado State Plumbing Board, 1560 Broadway, Suite 1350, Denver Colorado, 80202, along with all revisions, modifications and exceptions thereto made by such board, appearing at 3 CCR 720-1, entire rule effective February 14, 2016, rules 2.5.1.27, 4.1, 4.2, 4.5.4, 4.5.5, 4.6-4.13, 6.1, and 7.4 effective April 1, 2016. Three copies of the Code are now filed in the Office of the City Clerk and in the Office of the Regional Building Official and may be inspected during regular business hours. The code is being adopted in its entirety.

RBC307.2. Delete this section and insert a new section as follows:

**Section RBC307.2. Codes Adopted By Reference.** There is hereby adopted by reference ~~the~~ National Electrical Code, ~~2014~~ **2017** edition, adopted by the Department of Regulatory Agencies, Division of Professions and Occupations, Colorado State Electrical Board, 1560 Broadway, Suite 1350, Denver Colorado, 80202, appearing at 3 CCR 710 ~~-1~~ adopted and effective **March 17, 2018** ~~July 1, 2014~~. Three copies of the Code are now filed in the Office of the City Clerk and in the Office of the Regional Building Official and may be inspected during regular business hours. The code is being adopted in its entirety.

RBC310.3. Delete this section and insert a new section as follows:

**Section RBC310.3. Codes Adopted By Reference.** There is hereby adopted by reference American Society of Mechanical Engineers Safety Code for Elevators and Escalators, ASME A17.1, 2013, including **Table 2-3-2 of 7 CCR 1101-8** and all supplements thereto; the Safety Code for Existing Elevators and Escalators, ASME A17.3, 2005, and all supplements thereto, and the Safety Standard for Platform Lifts and Stairway Chairlifts, ASME A18.1, 2011, adopted by the Department of Labor and Employment, Division of Oil and Public Safety, 633 17th Street, Suite 500, Denver Colorado, 80202, along with all revisions, modifications and exceptions thereto, appearing in 7 CCR 1101-8, and effective **April 1, 2017**. Three copies of these Codes are now filed in the Office of the City Clerk and in the Office of the Regional Building Official and may be inspected during regular business hours. The codes are being adopted in their entirety.

RBC313.6. This section is subject to the additions, modifications, and/or deletions set forth in City Code 7.8.102.

RBC313.17.1. This section is subject to the additions, modifications, and/or deletions set forth in City Code 7.8.102.

RBC313.17.2. This section is subject to the additions, modifications, and/or deletions set forth in City

Code 7.8.102.

RBC313.18.5. This section is subject to the additions modifications, and/or deletions set forth in City Code 7.8.102.

(Ord. 05-135; Ord. 10-8; Ord. 11-34; Ord. 16-23; Ord. 16-121; Ord. 18-15; Ord. 18-121)

**7.10.104: APPLICABILITY:**  

The Building Code shall apply to every building or structure the use of which the City has jurisdiction and authority to regulate. (Ord. 05-135)

**7.10.105: INTERPRETATION:**  

The Building Code shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building regulations contained herein. (Ord. 05-135)

**7.10.106: VIOLATIONS:**  

Any person violating any provision of the Building Code shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than ninety (90) calendar days in the City Jail or County Jail, or both. A separate offense shall be deemed committed for each and every calendar day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or remodeled, used or maintained in violation of the Building Code or of any provision of the Building Code, the City Attorney, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus or abatement to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, remodeling, maintenance or use. (Ord. 05-135)

**7.10.107: FAILURE TO OBEY ORDER:**  

If, after any order of the Building Official or Board of Appeals made pursuant to section RBC112 (dangerous buildings) of the Building Code has become final, the person to whom such order is directed fails, neglects or refuses to obey such order, the Building Official may either cause such person to be prosecuted under section RBC112.3.11 of the Building Code or institute any appropriate action to abate such building as a public nuisance. (Ord. 05-135)

**7.10.108: FELONY AND CRIMINAL FRAUD:**  

No person or entity convicted by a court having competent jurisdiction of a felony, or for civil or criminal fraud, constructive or actual, for work related to any license issued by the Building Department, or for work related to the building trades in any jurisdiction, shall be granted a license or registration, or serve as an examinee for a contractor in the City. (Ord. 05-135)

**7.10.109: CONTRACTOR PENALTY PROVISIONS:**  

A. Punishable Acts And Omissions: The following actions shall be considered punishable:

1. Wilfully violating any provisions of the Building Code including any codes which are adopted by reference.

2. Failure to comply with any lawful order of the Building Official or of any other authorized representative employed by the Building Department pertaining to the administration of the Building Code and the codes which have been adopted by reference.
3. Using a contractor's license to obtain permits required under the Building Code for work that will not be performed by or supervised by the contractor.
4. Misrepresentation by an applicant of a material fact when applying for a contractor's license.
5. Failure to obtain a proper permit for any work for which a permit is required by virtue of the Building Code.
6. Commitment of any act of wilful and wanton negligence in the conduct of the contractor's or other person's specific trade or business on work done by the contractor or other person that is regulated by the provisions of the Building Code.
7. Ordinary negligence of the contractor or other person, evidenced by letters of reprimand and/or incident reports received by the contractor within a three (3) year time period that are, in the judgment of the Board of Review, sufficient in number and severity to warrant revocation or suspension of the contractor's license.

B. Automatic Revocation Or Suspension: A license or registration, or the right of an examinee or principal of the contractor to serve as a contractor or as an examinee of a contractor, shall automatically be suspended or revoked by the Building Official as follows:

1. Registrations within this jurisdiction shall be automatically revoked or suspended upon revocation, suspension or refusal to renew any required Colorado State license.
2. Any license or registration within this jurisdiction shall be automatically suspended upon lapse, cancellation, or reduction of insurance coverage below that required by section RBC201.6 of the Building Code. This suspension shall remain in effect until proof of the reinstatement of the required coverage is presented to the Building Department. Failure to present this proof within twelve (12) months from the date of the lapse, cancellation, or reduction shall result in automatic revocation of the license or registration.
3. Conviction by a court having competent jurisdiction of the contractor and/or its examinee or registrant for a felony, or for civil or criminal fraud, constructive or actual, for work related to any license under the Building Code, shall result in automatic revocation of the license or registration and revocation of the right of the examinee, registrant, or principals of the contractor to serve as contractor or examinee or registrant for another contractor after notification by the Board of Review. The notification shall be served personally or posted by certified mail, return receipt requested, to the last known mailing address.

C. Voluntary Suspension:

1. The Board of Review may suspend licenses or registrations upon the voluntary written request for this action by the contractor. These suspensions shall not exceed a period of twelve (12) months unless a notarized annual certification from the contractor's employer is furnished to the Building

Department indicating that the contractor is engaged in an active capacity in the field of building construction.

2. While under voluntary suspension, the contractor need not carry insurance, but shall be responsible for all license or registration fees normally due.
3. The voluntary suspension shall be automatically lifted at any point during the twelve (12) month period under the following conditions:
  - a. Written request is made to the Board of Review by the contractor.
  - b. Proof of insurance is provided in accordance with section RBC201.5 of the Building Code.
4. In the event the contractor does not rescind the voluntary suspension within the twelve (12) month period as provided in subsection C3 of this section, or furnish proof of active engagement in the construction field, as provided in subsection C1 of this section, in order to obtain a new license or registration, the contractor must then meet all requirements of sections RBC201.5 and RBC201.6 of the Building Code. (Ord. 05-135)

#### **7.10.110: ALTERING, DEFACING OR REMOVING A NUMERIC ADDRESS:**

It shall be unlawful for any person to alter, deface or remove any number placed on any premises in accordance with the requirements of section RBC312 of the Building Code, except for repair or replacement of such number. Upon notice, actual or otherwise, repair or replacement of any number shall be completed within a twenty four (24) hour time period. (Ord. 05-135)

#### **7.10.111: FAILURE TO ABATE A SWIMMING POOL NUISANCE:**

Any party responsible for the operation of a swimming pool not in compliance with section RBC314 of the Building Code, or who fails to obey an order of the Building Official to abate the nuisance involved, or who refuses to permit the Building Official to abate the nuisance involved, or who refuses to permit the Building Official or the Building Official's authorized representative to inspect the swimming pool, shall be guilty of a misdemeanor. (Ord. 05-135)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) Prior ordinance history: Ord. 84-282; Ord. 99-127; Ord. 01-42.

## **PART 2 BUILDING DEPARTMENT**

**[7.10.201: PIKES PEAK REGIONAL BUILDING DEPARTMENT:](#)**

**[7.10.202: REGIONAL BUILDING COMMISSION:](#)**

**[7.10.203: FINANCE OF BUILDING DEPARTMENT:](#)**

**7.10.201: PIKES PEAK REGIONAL BUILDING DEPARTMENT:**  

The Pikes Peak Regional Building Department is created pursuant to a resolution of the City, dated April 27, 1976, and pursuant to a resolution adopted by the El Paso County Commissioners on April 22, 1976, which resolutions authorize the execution of an agreement between the City and the County of El Paso under the authority of Colorado Revised Statutes section 29-1-203, which agreement was entered into effectively on April 17, 1976, and December 10, 1985. The current agreement is incorporated herein by reference, including any amendments thereto and the agreement creates the Pikes Peak Regional Building Department. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

### **7.10.202: REGIONAL BUILDING COMMISSION:**

The Pikes Peak Regional Building Department shall be administered by a governing body of the Department to be known as the Regional Building Commission. The Regional Building Commission has the power and functions set forth in said agreement that include the appointment of the Administrator of the Pikes Peak Regional Building Department. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

### **7.10.203: FINANCE OF BUILDING DEPARTMENT:**

The cost of operation of the Pikes Peak Regional Building Department shall be as set forth in the agreement entered into by and between the City and the County of El Paso, State of Colorado, as amended. A budget shall be prepared annually by the Building Official and approved by the Regional Building Commission. At the end of each year a report shall be submitted by the Building Official of all income received. Any deficit in operation of the Department will be made up as provided in said agreement creating the Pikes Peak Regional Building Department. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

## **PART 3 BUILDING OFFICIAL**

### **7.10.301: GENERAL POWERS AND DUTIES:**

### **7.10.302: ACT AS DEPUTY PLUMBING INSPECTOR:**

### **7.10.303: APPOINTMENTS:**

### **7.10.304: REPORTS AND RECORDS:**

### **7.10.305: RIGHT OF ENTRY:**

### **7.10.306: STOP ORDERS:**

### **7.10.307: OCCUPANCY VIOLATIONS:**

### **7.10.308: COOPERATION OF OTHER OFFICIALS:**

### **7.10.309: AUTHORITY TO DISCONNECT UTILITIES:**

### **7.10.310: AUTHORITY TO CONDEMN EQUIPMENT:**

### **7.10.311: CONNECTION AFTER ORDER TO DISCONNECT:**

### **7.10.312: AUTHORITY TO IMPOSE A FINE:**

### **7.10.313: AUTHORITY TO RECORD A CERTIFICATE OF ALLEGED NONCOMPLIANCE:**

### **7.10.301: GENERAL POWERS AND DUTIES:**

The Administrator of the Pikes Peak Regional Building Department, hereinafter called the Building Official or the administrative authority, is hereby authorized and directed to enforce all provisions of this Building Code. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.302: ACT AS DEPUTY PLUMBING INSPECTOR:**

The Building Official is hereby confirmed as Deputy Plumbing Inspector for the County Board of Health, and is hereby authorized and directed to enforce all provisions of the Plumbing Code as adopted by the City and El Paso County. The Building Official shall submit periodic reports as requested concerning the public health aspects of plumbing inspections to the proper official of the County Board of Health. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.303: APPOINTMENTS:**

With the approval of the Regional Building Commission, the Building Official may appoint such officers, inspectors and assistants and other employees as shall be authorized from time to time. The Building Official may deputize such employees as may be necessary to carry out the functions of the Building Department. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.304: REPORTS AND RECORDS:**

- A. The Building Official shall submit a report to the Regional Building Commission not less than once a year, covering the work of the Department during the preceding period. The Building Official shall incorporate in this report a summary of recommendations of desirable amendments to this Code.
  
- B. The Building Official shall keep a permanent, accurate account of all fees and other monies collected and received under this Code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.
  
- C. The Building Official shall cause a permanent record of all meetings of the Board of Review, as established in section [7.10.401](#) of this article to be kept, using a skilled stenographer as secretary of the Board. Such record shall constitute the minutes of any official meeting and shall be kept in the Office of the Building Department as a public record accessible at all times. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.305: RIGHT OF ENTRY:**

Upon presentation of proper credentials, the Building Official or the Building Official's duly authorized representatives may enter at reasonable times any building, structure or premises in the City, or the zoned areas of El Paso County, to perform any duty imposed upon the Building Official by this Code. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.306: STOP ORDERS:**

Whenever any work is being done contrary to the provisions of this Code, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing



such work to be done, and such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.307: OCCUPANCY VIOLATIONS:**

Whenever any structure is being used contrary to the provisions of this Code, the Building Official may order its use discontinued and the structure, or portion thereof, vacated by notice served on any person causing the use to be continued. The person shall discontinue the use within ten (10) days after receipt of the notice or make the structure, or portion thereof, comply with requirements of this Code. In the event the use of the structure contrary to the provisions of this Code results in an unsafe building, [article 14 of this chapter](#) shall apply. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.308: COOPERATION OF OTHER OFFICIALS:**

The Building Official may request, and shall receive so far as may be necessary in the discharge of the Building Official's duties, the assistance and cooperation of other officials of the City and the County of El Paso. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.309: AUTHORITY TO DISCONNECT UTILITIES:**

The Building Official or the Building Official's authorized representative shall have the authority to disconnect any utility service or energy supplied to the building, structure or building service equipment therein regulated by this Code or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life and property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

#### **7.10.310: AUTHORITY TO CONDEMN EQUIPMENT:**

When the Building Official ascertains that equipment, or a portion thereof, regulated by this Code has become hazardous to life, health or property, the Building Official shall order in writing that the equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice shall contain a fixed time limit for compliance with such order. Persons shall not use defective equipment after receiving a notice. (Ord. 99-127; Ord. 01-42)

#### **7.10.311: CONNECTION AFTER ORDER TO DISCONNECT:**

Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to any equipment regulated by this Code which has been condemned, disconnected or ordered to be disconnected by the Building Official, until the Building Official authorizes the reconnection and use of such equipment. (Ord. 99-127; Ord. 01-42)

#### **7.10.312: AUTHORITY TO IMPOSE A FINE:**

The Building Official may impose an administrative fine in an amount of up to one thousand dollars (\$1,000.00) on any person, or entity, engaged in any construction consulting work or construction work covered by this Code within the City or within the zoned area of El Paso County who engages in said work in violation of any provisions of this Code. Appeals to such action may be made as provided for elsewhere in this Code. The Building Official shall make monthly reports of such imposed fines to the Regional Board of Review. (Ord. 99-127; Ord. 01-42)

### **7.10.313: AUTHORITY TO RECORD A CERTIFICATE OF ALLEGED NONCOMPLIANCE:**

The Building Official shall have the authority to record a certificate of alleged noncompliance thirty (30) days after notice of noncompliance is posted on the building or sent by certified mail to the individual or entity as concerns any work done by any individual, or entity which allegedly fails to comply with the final inspection requirements of this Code. At such time as appropriate corrections have been made by the individual or entity so that the work then complies with this Code, the Building Official may record a release of the certificate of alleged noncompliance. (Ord. 99-127; Ord. 01-42)

## **PART 4 BOARD OF REVIEW**

### **7.10.401: ESTABLISHED:**

### **7.10.402: GENERAL AUTHORITY AND RESPONSIBILITY:**

### **7.10.403: ADVISORY COMMITTEES; PURPOSE:**

### **7.10.404: ADVISORY COMMITTEES; COMPOSITION AND FUNCTIONS:**

### **7.10.405: BOARD AND COMMITTEES; APPOINTMENTS, ORGANIZATION AND MEETINGS:**

### **7.10.406: LIABILITY OF MEMBERS:**

### **7.10.401: ESTABLISHED:**

In order to carry out and accomplish the provisions and objectives of the Building Code, there is hereby created a Board to be known as the Board of Review.

The Board of Review shall be composed of five (5) members, the members to serve for terms of three (3) years. The membership of the Board shall include the following:

A registered engineer (structural, electrical or mechanical)

An architect

A building contractor A or B (commercial work)

A building contractor A, B or C (home builder)

A citizen at large experienced in building construction (Ord. 84-282; Ord. 99-127; Ord. 01-42)

### **7.10.402: GENERAL AUTHORITY AND RESPONSIBILITY:**

A. The Board of Review shall have the authority to propose rules and regulations and standards as may be necessary to accomplish the purposes and objectives of the Building Code. All rules, regulations and standards as may be proposed for adoption by the Board of Review shall be subject to final approval of the appropriate legislative body of the City or the County. All rules

and regulations upon adoption shall be reduced to writing and kept available for public inspection in the Offices of the Regional Building Official and the City Clerk.

- B. The Board of Review shall be the authorized authority for granting and for revoking all licenses provided for in the Building Code.
  
- C. The Board of Review shall be charged with the responsibility of reasonable interpretation of all codes adopted by the City and the County of El Paso which are administered by the Regional Building Department. The Board of Review may make minor variances from the provisions of those codes, so long as the minor variances when granted are consistent with the intent of the codes and the standards therein specified relating to quality, design of materials and construction. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

**7.10.403: ADVISORY COMMITTEES; PURPOSE:**  

Advisory committees shall be established as advisory to the Board of Review. These committees shall review all appeals with power to interpret and grant minor variances from the Building Code and shall examine all applicants and attest as to their fitness and qualifications for licenses. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

**7.10.404: ADVISORY COMMITTEES; COMPOSITION AND FUNCTIONS:**  

- A. Building Committee: The Building Committee shall be primarily responsible for testing and reviewing all applicants for licenses and the performance of work required under the Building Code, the Uniform Code for Building Conservation, the Sign Code, and applicable provisions of the Energy Conservation and Mobile and Manufactured Home Codes. The Building Committee shall be composed of:

Registered engineer (structural)

Architect

Building contractor A or B (commercial work)

Building contractor A, B or C (home builder)

Building contractor D or subcontractor

Citizen at large experienced in the building industry

Banker

- B. Electrical Committee: The Electrical Committee shall be primarily responsible for review of all applicants for registration and the performance of work done under the Electrical Code. The Electrical Committee shall be composed of:

Registered engineer (electrical)

Architect

Electrical contractor with a Colorado State license

Building contractor A or B (commercial work)

Building contractor A, B or C (home builder)

Journeyman electrician with a Colorado State license

Citizen at large experienced in the electric industry

C. Mechanical Committee: The Mechanical Committee shall be primarily responsible for any testing for licensing under the Mechanical Codes and review of applicants for registration under the Plumbing Codes and the performance of work under both codes, the Safety Code for Elevators, and applicable provisions of the Energy Conservation and Mobile and Manufactured Home Codes. The Mechanical Committee shall be composed of:

Registered engineer (mechanical)

Architect

Building contractor A, B or C (home builder)

Licensed heating contractor A

Colorado State licensed master plumber

Licensed heating contractor B

Colorado State licensed journeyman plumber

D. Fire Board Of Appeals: The Fire Board of Appeals shall be responsible for any testing or certification requirements regarding fire suppression contractors. (Ord. 84-282; Ord. 87-227; Ord. 99-127; Ord. 01-42; Ord. 03-171)

#### **7.10.405: BOARD AND COMMITTEES; APPOINTMENTS, ORGANIZATION AND**

#### **MEETINGS:**

A. The Board and advisory committees shall be appointed by the Board of County Commissioners of the County of El Paso in conjunction with the City Council, acting as individual bodies, but in agreement.

B. Terms of service shall be three (3) years unless to fill an unexpected vacancy. After the three (3) year term is completed, members shall serve as an alternate member for an additional two (2) years. In the event that a quorum cannot be established, an alternate member may be asked to attend prior to the scheduled meeting.

C. The Board, or each Committee, as its first official act in each year, shall elect a chair and vice chair.

D. Minutes will be maintained of all meetings and be made a permanent public record. To constitute a quorum, at least a majority of the entire membership of the Board or Committee shall be present. The Board, or Committee, shall meet as necessary for the conduct of business.

E. Board or Committee members shall be dropped from the Board or Committee for failure to attend at least sixty percent (60%) of the scheduled meetings in any twelve (12) month period. (Ord. 84-282; Ord. 99-127; Ord. 01-42; Ord. 08-178)

#### **7.10.406: LIABILITY OF MEMBERS:**

Any members of the Board, and any members of the committees provided for herein, acting in good faith and without malice for the City or the County of El Paso in the discharge of their duties shall not thereby render themselves personally liable. Said members are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required, or by reasons of any act or omission related to the discharge of their duties. Any suit brought against a member or members of the Board or committees, as provided for herein, because of such act or omission performed by them in the discharge of their duties, shall be defended by the City or the County of El Paso according to the location of the property that is the subject of the act or omission that resulted in the suit, until final termination of the proceedings. (Ord. 84-282; Ord. 99-127; Ord. 01-42)

## **PART 5 ENUMERATION**

**[7.10.501: DECLARATION OF INTENT AND PURPOSE:](#)**

**[7.10.502: DESIGNATION:](#)**

**[7.10.503: AUTHORITY:](#)**

**[7.10.504: GENERAL REGULATIONS FOR ASSIGNMENT OF NUMERIC ADDRESS:](#)**

**[7.10.505: REGULATIONS FOR RESIDENTIAL USES:](#)**

**[7.10.506: REGULATIONS FOR COMMERCIAL AND INDUSTRIAL USES:](#)**

**[7.10.507: NUMERIC ADDRESS CHANGE:](#)**

**[7.10.508: NUMERIC ADDRESSES REQUIRED ON PLATS:](#)**

**[7.10.509: TEMPORARY POSTING OF NUMERIC ADDRESS:](#)**

**[7.10.510: REPORTING OF SUBNUMERIC AND/OR LETTER IDENTIFIERS:](#)**

**[7.10.511: REGULATIONS FOR NUMBERS ON BUILDINGS:](#)**

**7.10.501: DECLARATION OF INTENT AND PURPOSE:**  

The City Council declares that the intent and purpose of this part is to protect and promote the health, safety, and general welfare of the people and their property, to provide for the continuing assignment of property addresses in a logical and orderly manner and to ensure the efficient, timely,

and convenient delivery of services and goods, public or private, to the people and their property. To this end, therefore, this part shall be applicable to all property, including structures, now in existence or hereinafter constructed and that are subject to the jurisdiction of the Building Official. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.502: DESIGNATION:**

The Building Official may designate those employees as may be necessary to carry out the intent and purpose of this part. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.503: AUTHORITY:**

The Building Official shall have the authority to carry out the duties and responsibilities of this part for all properties subject to the jurisdiction of the Building Official. This authority shall include, but is not limited to:

A. Authority To Assign Numeric Address: The Building Official shall have the authority to assign numeric addresses to property, including structures, in compliance with this part. In order to duly exercise this authority, the Building Official shall have the right to:

1. Enter upon any premises at any reasonable time for the purpose of making inspection of any premises necessary to determine the assignment of any numeric address;
2. Require site plans, building plans, listings of property owners, maps or any other information deemed necessary to determine the assignment of any numeric address;
3. Determine the approval or disapproval of any application requesting an assignment of or change to the assignment of a numeric address;
4. Determine the existence of a significant interest on the part of any person, organization, group, governmental entity, or agency that may request a change in the assignment of a numeric address for property not owned by that person, organization, group, governmental entity, or agency;
5. In designating a numeric address, determine the direction of a street;
6. Designate numeric addresses on final plats and replats prior to the recording of such plats with the El Paso County Clerk and Recorder's Office.

B. Authority To Require A Street: The Building Official shall have the authority to require a street and/or a street name when there are no, or not enough, numeric addresses available on an adjacent street, so that numeric addresses cannot be assigned as required by this part.

C. Authority To Disapprove Building Permit Issuance: The Building Official shall have the authority to disapprove the issuance of a building permit until all requirements of this part are met.

1. Exception: The Building Official may issue a building permit prior to platting of property when waiver of the platting requirement has been approved in accord with this Code, as amended. The assigned numeric address for the property shall be designated on the final plat or replat.

- D. Authority To Issue Change: The Building Official shall have the authority to issue official notice, including effective date, of a numeric address change.
- E. Authority To Adopt Rules Of Procedure: The Building Official shall have the authority to adopt rules and regulations of procedure that are necessary to implement this part. The rules and regulations of procedure shall be approved as to form by the City Attorney's Office.
- F. Authority To Act: The Building Official shall have the authority to determine or otherwise act upon the assignment of or a change to a numeric address, or any matter related thereto, which shall be deemed final agency action and not subject to further administrative review or appeal.
- G. Authority To Require Fees And Costs: In addition to any fees, the Building Official shall have the authority to require payment in advance of any cost associated with a change to or assignment of a numeric address, including the recording of any necessary documents.
- H. Authority To Enforce: The Building Official shall have the authority to require compliance with the requirements of this part and the provisions of the Fire Prevention Code and Standards. It shall be the responsibility of the property owner(s) to meet or cause to be met all applicable requirements. Upon due notification of noncompliance and failing to meet or cause to be met all applicable requirements, the property owner(s) shall be responsible for any and all incurred expenditures on the part of the City of Colorado Springs or any authorized agency in the enforcement of and compliance with applicable requirements. Any person who violates, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this part or the Fire Prevention Code and Standards shall be punished as provided in the general penalty provision of this Code, as amended. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.504: GENERAL REGULATIONS FOR ASSIGNMENT OF NUMERIC ADDRESS:**



- A. Reference Point: Except for properties that have been historically distinguished by an independent numeric system prior to the adoption of this part, unless determined by the Building Official that any duplication of numeric address constitutes a hazard to the public health, safety, or welfare, all numeric addresses for property within the City of Colorado Springs shall be determined by the intersection of Pikes Peak Avenue and Cascade Avenue. At this reference point, all numeric addresses are the zero hundred block (00) series. From this reference point, all numeric addresses shall project in an outward direction. There shall be no more than one thousand (1,000) numeric addresses assigned to any one mile.
- B. Frontage Interval Of Standard Block: The frontage interval of a standard block is five hundred fifty feet (550'). This interval shall be used in determining where hundred block (00) series numbers will be changed from one hundred (100) to the next higher or lower one hundred (100) block series. The existence of an intersection shall generally require a new hundred block series for numeric addresses. Variation from the frontage interval of a standard block shall be allowed to standardize the numeric addresses of parallel blocks at the same distance from the reference point.

- C. **Numeric Address Interval Of Lots:** Numeric addressing of property contained in any one hundred (100) block series shall be determined by the number of platted lots within that block; for example, but not by way of limitation, nine (9) lots equal numeric addresses in increments of ten (10), such as 2010, 2020, 2030, etc.; twelve (12) lots equal numeric addresses in increments of eight (8), such as 2008, 2016, 2024, etc.; fourteen (14) lots equal numeric addresses in increments of six (6), such as 2006, 2012, 2018, etc.
- D. **Determination Of Even And Odd Numeric Addresses:** Odd numeric addresses shall be assigned to property located on the south or east side of a street. Even numeric addresses shall be assigned to property located on the north or west side of a street. Numeric addresses shall not be changed to opposite sides of the street regardless of the direction the street may take; for example, but not by way of limitation, on a west-east loop street, the even numeric addresses will be located on the west side of the west half of the loop street and on the east side of the east half of the loop street.
- E. **Determination Of Direction Of A Street:** A street shall be determined to be either an east-west street or a north-south street based upon the longest linear distance, in feet, of the major orientation of that street. For example, but not by way of limitation, a north-south street of many blocks in length may have a small portion of the street running in an east-west direction; this street shall be determined to be a north-south street.
- F. **Determination Of Numeric Address:** Numeric addresses shall be assigned consecutively. When a determination of the direction of the street has been made, property shall be assigned a numeric address that is consistent with the hundred block series for all parallel blocks equidistant from the reference point. All property located on the same street shall be addressed in either a north-south block series or in an east-west block series; in no event shall there be a combining of the two (2) block series.
- G. **Determination Of Exceptional Address:** The use of subnumerics, such as one-half ( $1/2$ ), or alphabetical suffixes, such as A, B, C, etc., is permitted only when whole numeric addresses are not available.
- H. **Determination Of Officially Approved Numeric Address:** The officially approved numeric address is that which is determined by the Building Official at the time of issuance of a building permit. Any numeric address assigned for any particular premises based upon a preliminary plat or development plan shall not be construed to be the officially approved numeric address and shall be subject to change, without prior notice, by the Building Official. Any numeric address designated for any particular premises based upon a final plat or replat that has been recommended for approval shall be subject to change, with notice to the El Paso County Clerk and Recorder's Office, by the Building Official when the designated numeric address as it appears on the recorded final plat or replat does not conform to the officially approved numeric address as finally determined by the Building Official at the time of issuance of a building permit for that premises. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.505: REGULATIONS FOR RESIDENTIAL USES:**



A. Detached Single-Unit Residential Use: Except as hereinafter set forth, numeric addresses shall be assigned to any detached single-unit residential premises from the hundred block series of the street that abuts the premises.

B. Multi-Unit Residential Use: Numeric addresses shall be assigned to any multi-unit residential premises based upon a review by the Building Official of the following facts:

1. Location of development, especially with regard to proximity and access to public streets;
2. Density of development;
3. Lotting pattern of development;
4. Internal access of development;
5. Layout and type of structures, especially with regard to orientation and the type and number of entrances;
6. Nature of ownership of the units;
7. Availability of numeric addresses that are assignable;
8. Any other factor(s) deemed relevant by the Building Official.

C. Mobile Home Park Or Mobile Home Subdivision: Numeric addresses shall be assigned to properties in a mobile home park or a mobile home subdivision as outlined in subsection B of this section.

D. Through Lots Or Corner Lots: Preliminary numeric addresses from both streets may be assigned to a through lot or corner lot. This preliminary assignment of a dual address shall not be construed as approval for access, curb cut(s), or driveway entrance(s) for such a lot. The officially approved numeric address of a through lot or corner lot shall be determined at the time of issuance of a building permit. This officially approved numeric address shall be determined as follows:

1. Detached Single-Unit Residential Structure: The numeric address shall be assigned from the block series of the street that is located parallel to the exterior face of the structure that contains, regardless of angle, the main, or commonly known front door, entrance into the structure.
2. Multi-Unit Residential Structure: The numeric address(es) shall be assigned upon a review of the factors outlined in subsection B of this section.
3. Mobile Home Park Or Mobile Home Subdivision: The numeric addresses shall be assigned upon a review of the factors outlined in subsection B of this section.
4. No Parallel Street Determined: In the event that there can be no determination of a street that is clearly parallel to the exterior face of the structure that contains, regardless of angle, the main, or commonly known front door, entrance(s) into a structure, a numeric address shall be assigned from

the block series of the street that would most reasonably and readily be identified as the street upon which the structure fronts. Factors that may be considered, but not limited to, include: lineal feet of property on each street; points of access into the lot; layout of structures on the lot; design of the structure(s) with regard to entrance(s); lineal feet of principal structure facing each street. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

### **7.10.506: REGULATIONS FOR COMMERCIAL AND INDUSTRIAL USES:**

A. Detached Single-Unit Commercial Use Or Industrial Use: Except as hereinafter set forth, numeric addresses shall be assigned to any detached single-unit commercial or industrial premises from the hundred block series of the street that abuts the premises.

B. Multi-Unit Commercial Use Or Industrial Use: Numeric addresses shall be assigned to multi-unit commercial or industrial premises in the following order of determination:

1. In the event that only one street abuts the premises, numeric addresses shall be assigned from the block series of that abutting street. This shall pertain to property containing any number of freestanding structures.
2. In the event that two (2) streets abut the premises, numeric addresses shall be assigned based upon a review by the Building Official of the following facts:
  - a. Location and lotting pattern of development;
  - b. Access to development;
  - c. Lineal feet of frontage of lot(s) on each street;
  - d. Orientation of structure(s) and lineal feet of structural frontage;
  - e. Any other factor(s) deemed relevant by the Building Official.

Numeric addresses shall be assigned for the potential maximum usage of the development. Unused numeric addresses shall be retained and reserved for future use.

C. Corner Lots Or Through Lots: Preliminary numeric addresses from both streets may be assigned to corner or through lots. This preliminary assignment of a dual address shall not be construed as approval for access, curb cut(s), or driveway entrance(s) for such a lot. The officially approved numeric address of the property shall be determined at the time of issuance of a building permit.

The officially approved numeric address shall be determined as follows:

1. Detached Single-Unit Commercial Structure Or Industrial Structure: The numeric address shall be assigned from the block series of the street that is located parallel to the exterior face of the structure that contains, regardless of angle, the main, or commonly known front door, entrance into the structure. Should no street parallel said face, then the numeric address shall be assigned from the block series of the street that most reasonably and readily identifies the location and situation of that structure. Factors that may be considered, but not limited to, include: lineal feet of property on each

street; points of access into the lot; design of the structures, including orientation, windows, signage and entrance(s); lineal feet of structure facing each street.

2. Multi-Unit Commercial Use Or Industrial Use: The numeric address(es) shall be assigned upon a review of the factors outlined in subsection B of this section. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

### **7.10.507: NUMERIC ADDRESS CHANGE:**

A. Procedure: A request for a change of numeric address shall be submitted in writing to the Building Official. The applicant shall clearly state the specific reason for the change and shall submit any other information deemed necessary by the Building Official. No change of numeric address shall be granted by the Building Official unless or until the requirements of this part have been met.

B. Notification: An official notice of assignment of numeric address shall be completed by the Building Official on any approved numeric address changes. This notice shall be sent to the property owner as well as other persons, organizations, groups, or governmental agencies that provide a public service to the property and that request such notice. The notice of assignment of numeric address shall be mailed or otherwise distributed within seven (7) days of the change of numeric address. It shall be the responsibility of each person, organization, group, or governmental agency to alter or modify appropriate records. Any conflict or dispute regarding a numeric address change shall be referred for resolution to the Building Official.

C. Initiation Of Request: A request for a numeric address change may be submitted by a property owner or any other party with a determined significant interest, including, but not limited to, providers of emergency services or utilities, the United States Postal Service or the Building Official under any one of the following conditions:

1. Current numeric address is not in proper sequence.
2. Current numeric address is incorrect, confusing, or misleading.
3. Current numeric address is on the wrong side of the street.
4. Main, or commonly known front door, entrance does not face that street as named in the address.
5. Realignment of a street or change in street pattern invalidates current numeric address.
6. New street intersection makes current numeric address incorrect, confusing, or misleading.
7. A change in street name or street designation makes current numeric address incorrect.
8. The correct numeric address is not being used.
9. A numeric address has not been assigned.
10. Any other justification in furtherance of the purpose and intent of this part or any other pertinent ordinance, regulation or rule pertaining to property addressing.

D. Reassignment Of Street Name: A request for a numeric address change may also necessitate a corresponding change in the street name that will be used as part of a premises' address for, but not limited to, corner or through lots. In such cases, the Building Official shall have the authority to concurrently approve a reassigned street name upon determination that a numeric address change is appropriate. When such a numeric address change and street name reassignment is approved, the Building Official shall issue official notice, including effective date, of both the numeric change and street name reassignment. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.508: NUMERIC ADDRESS REQUIRED ON PLATS:**

The Building Official shall designate assigned numeric addresses in a legible manner on final plats and replats. All corner lots or through lots shall be designated at the discretion of the Building Official. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.509: TEMPORARY POSTING OF NUMERIC ADDRESS:**

In order to ensure the timely and effective delivery of private and public services, including, but not limited to, emergency services and assistance, utilities provision and required inspections, it shall be the responsibility of that person, company, firm, business, agency, or corporation in whose name the building permit is issued to ensure the temporary posting of the officially approved numeric address. The temporary posting of this address shall occur prior to the making of any required inspection. The numeric address posting shall be of any material that is weather resistant, shall be plainly visible and legible from the street, road, fire lane or other right of way, or easement fronting the structure, and shall be maintained until such time as the officially approved numeric address is permanently displayed. (Ord. 86-106; Ord. 99-127; Ord. 01-42)

#### **7.10.510: REPORTING OF SUBNUMERIC AND/OR LETTER IDENTIFIERS:**

The reporting of any subnumeric and/or letter identifier is required for any unit, but not by way of limitation, in a multi-unit residential, commercial, office, or industrial structure, or any combination thereof, or a space or lot in a mobile home park as follows:

- A. Upon any change to such subnumeric and/or letter identifier in existence at the time of this requirement; or
- B. Upon the assignment of any such subnumeric and/or letter identifier for any such unit constructed subsequent to this requirement; or
- C. Upon determination by the Building Official that there exists a hazard to the public health, safety, or welfare. It shall be unlawful to fail to meet this requirement within fifteen (15) days of such change, assignment or determination. The reporting shall be made to the Colorado Springs Utilities, meter reading division, in writing and shall include, for any change, the original identifier and the new identifier. The Building Official may require the submittal to the Colorado Springs Utilities, meter reading division, of a floor plan for each floor of the structure upon which shall be designated a subnumeric and/or letter identifier for each unit of the floor. (Ord. 86-106; Ord. 98-185; Ord. 99-127; Ord. 01-42)

#### **7.10.511: REGULATIONS FOR NUMBERS ON BUILDINGS:**

A. Officially approved numeric addresses shall be placed on all new and existing structures, including single-unit and multi-unit residential structures, in such a location and position as to be plainly visible and legible from the street, road, fire lane or other right of way, or easement fronting the structure.

B. Except as hereinafter set forth, such officially approved numeric addresses shall be represented by numbers that are a minimum of five inches (5") in height with no less than one-half inch ( $\frac{1}{2}$ ") stroke so as to be plainly visible and legible from a distance of at least one hundred feet (100') from the structure.

1. Exceptions:

a. Nonconforming as to size numeric addresses that were lawfully existing upon a single-unit or multi-unit residential structure at the time this dimensional requirement became effective may be continued in use except:

(1) When a determination is made by the Building Official that the requirements of subsection A of this section are not met; that is, the approved numeric address is not plainly visible and legible from the street, road, fire lane or other right of way, or easement fronting the structure or is not plainly visible and legible from a distance of at least one hundred feet (100') from the structure; or

(2) When a building permit for any purpose whatsoever is issued for a single-unit or multi-unit residential structure with a numeric address of a nonconforming size; or

(3) When a determination is made by any enforcement officer that a change in use, either in whole or in part, has occurred in a single-unit or multi-unit residential structure such that the use of that structure is no longer exclusively residential.

b. Any area occupied by tenants of a mall or shopping center, the main entrance to which is from the inside of the mall or shopping center, or any area used for other than single-unit or multi-unit residential occupancy that abuts a public courtyard or other public space shall be identified by numbers that are a minimum of four inches (4") in height with no less than one-half inch ( $\frac{1}{2}$ ") stroke so as to be plainly visible and legible from a distance of at least fifty feet (50') from the main entrance to the area.

c. If access to a premises is provided by a private drive or easement; or if a structure or portion of a structure is obscured by another structure or other feature, either natural or manmade; or a premises is located on the interior of a lot or block, then the numeric address shall, in addition to meeting the requirements of this section, be posted in a permanent manner and forever maintained at a location in the nearby vicinity of the intersection of the private driveway or easement with a public street, or at a location such that the numbers are plainly visible and legible and the existence of the premises or structure is reasonably indicated. The numbers shall be on a sign that is attached to a ground stake that does not exceed thirty inches (30") in height or shall be on a portion of a permanent structure designed and used to house the mailbox. Numbers painted or stenciled on a curb shall not serve to meet this requirement.

C. Officially approved numeric addresses shall be represented by numbers that are contrasting in color with their background, face the street named in the address and are plain block numerals.

- D. Such officially approved numeric addresses shall not, in any event, be represented by numbers that are affixed to any tree or obscured by vegetation or any other feature, natural or manmade.
  
- E. It shall be the responsibility of the property owner(s) to meet or cause to be met all of the requirements of this section. All numbers shall be forever maintained in such a manner as to comply with the requirements of this section.
  
- F. A numeric address change shall be requested and may be approved by the Building Official in accord with this part. It shall be the responsibility of the property owner(s) to ensure that within fifteen (15) days of the official notice of determination of numeric address as issued by the Building Official, the officially approved numeric address is posted in accord with the requirements of this section.
  
- G. It shall be unlawful for any person to alter, deface or remove any number placed on any premises in accord with the requirements of this part, except for repair or replacement of such number. Upon notice, actual or otherwise, repair or replacement of any number shall be completed within a twenty four (24) hour time period. (Ord. 86-106; Ord. 99-127; Ord. 01-42)