

## CHAPTER 16

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## ARTICLE I

### Administration

#### Sec. 16-1-10. Definitions.

For the purposes of this Article, certain terms or words used herein shall be interpreted as follows:

The words *used* or *occupied* include the words *intended*, *designed* or *arranged to be used or occupied*.

The word *lot* includes the words *plot* or *parcel*.

*Accessory building* means a subordinate building or portion of the main building, the use of which customarily is incidental to that of the main building or to the main use of the premises. For the purposes of this Chapter, the term *accessory building* shall include dish antennas and similar structures.

*Accessory use* means a subordinate purpose for which the land or structures thereon are designed or intended.

*Alley* means a public thoroughfare which provides only a secondary means of access to abutting property, the right-of-way of which is twenty (20) feet or less in width.

*Alter* means any structural change in the supporting or load-bearing members of a building, such as bearing walls, columns, beams, girders or floor joints.

*Animal hospital or clinic* means an establishment where animals are admitted principally for examination, treatment, board or care by a doctor of veterinary medicine. This does not include open kennels or runs.

*Apartment*: See *dwelling, multiple family*.

*Aquaculture* means the science and endeavor of producing and raising, on a commercial basis, fish or shellfish in confined tanks or beds of water.

*Basement* means a story having part, but not less than one-half (1/2) of its height below grade.

*Board of Adjustment and Appeals* means the legally appointed municipal board empowered to hear and decide appeals from, and to provide interpretations of the terms of, the zoning regulations and Official Zoning Map, as defined within this Article, and in accordance with state laws.

*Boarding house* means a building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons.

*Building* means any structure designed or intended for the enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls from the ground up, each part is deemed a separate building.

*Building height* means the vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof to the deck line of a mansard roof and to the average height between the plate and ridge of a gable, hip or gambrel roof.

*Building Official* means the person designated by the City Council to administer these zoning regulations, whether such person is entitled Building Official, Building Inspector, Administrative Official, Public Works Director, Enforcing Officer or Zoning Official.

*Car wash* means an establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

*Cellar* means a story having more than one-half (½) of its height below grade.

*Child care*: See *day nursery*.

*Clinic*: See *medical, dental or health clinic*.

*Club* or *lodge* means a nonprofit association or organization formed for fraternal, social, educational, philanthropic or other similar purposes, including unions and professional organizations.

*Comprehensive plan* means the duly adopted comprehensive plan for the development of the community which includes maps, charts, illustrations and texts for the following:

- a. Land use studies;
- b. Goals and objectives;
- c. Population study and forecasts;
- d. Economic study;
- e. Housing survey;
- f. Transportation plan;
- g. Central business district plan;
- h. Community facilities and public utilities plan; and
- i. General development plan.

*Condominium* means an individually owned single-family dwelling unit located in a multifamily structure where the surrounding lot area is held in common and maintained through a special ownership agreement.

*Day care center*: See *day nursery*.

*Day care home*: See *day nursery*.

*Day nursery* includes the following:

- a. *Child care*: See *day care home*, *large day care home* and *day care center*.
- b. *Day care center* means a facility which is not the caregiver's residence, and which provides day care for thirteen (13) or more unrelated children.
- c. *Day care home* means a facility in which the primary caregiver provides day care out of his or her home for two (2) to six (6) unrelated children.
- d. *Large day care home* means a facility in which the primary caregiver provides day care out of his or her home for seven (7) to twelve (12) unrelated children.
- e. *Preschool* means an establishment which provides educational services for unrelated children aged five (5) years and under, and/or below the age required for entrance into the public school system.

*Dwelling, multiple family or multi-family* means a residential building designed for or occupied by three (3) or more families with the number of families in residence not exceeding the number of dwelling units provided.

*Dwelling, single-family* means a detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family only.

*Dwelling, two-family* means a detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

*Dwelling unit* means one (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

*Family* means one (1) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, fraternity or sorority house, lodginghouse, hotel or motel.

*Floodplain* means land area subject to inundation from surplus stormwater, as defined by the HUD flood insurance study, and as depicted on the flood insurance rate map for the community.

*Frontage* means all the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating), measured along the line of the street. Where a street is dead-ended, the frontage shall be considered as all that property abutting on one (1) side between an intersecting street and the dead end of the street.

*Garage, private* means an accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

*Garage, public* means a building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.

*Home occupation* means an occupation or activity carried out on the premises which meets all the following conditions:

- a. Only one (1) person other than residents of the premises shall be engaged in such occupation;
- b. The occupation is customarily incidental to the use of the premises as a dwelling place;
- c. Not more than one (1) non illuminated nameplate is used;
- d. The nameplate shall be attached to the building and shall not exceed one (1) square foot in area;
- e. The occupation does not occupy more than twenty-five percent (25%) of the floor area of one (1) floor of the principal building, when such use is carried on in the principal building;
- f. No display will indicate from the exterior of the building that the premises are being used in part for any purpose other than a dwelling;
- g. There is no commodity displayed or stored on the premises except that which is prepared on the premises;
- h. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses of a person off the lot if the occupation is conducted in a single-family residence, or outside the individual dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises; and
- i. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

This definition of home occupation shall not include the growth or cultivation of marijuana for medical purposes, and a medical marijuana dispensary may not be operated as a home occupation.

*Hospital* means an establishment used primarily for inpatient care and provision of health, medical, mental and surgical care of the sick or injured.

*Junk or salvage yard* means a lot, parcel or tract of land, including buildings, used primarily for the collection, storage and sale of waste paper, rags, scrap metal or other discarded material or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof.

*kennel* means any house, building, structure, premises or land where more than three (3) dogs over the age of four (4) months are kept.

*Large day care center*: See  *day nursery*.

*Loading space, off-street* means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

*Lot* means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such  *lot* shall have frontage on any improved public street or on an approved private street and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, of complete lots of record and portions of lots of record or of portions of lots of record; or
- d. A parcel of land described by metes and bounds;

provided that in no case of divisions or combination shall any residual lot or parcel be created which does not meet the requirements of this Chapter.

*Lot frontage* means the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under  *yards* in this Section.

*Lot measurements* are defined as follows:

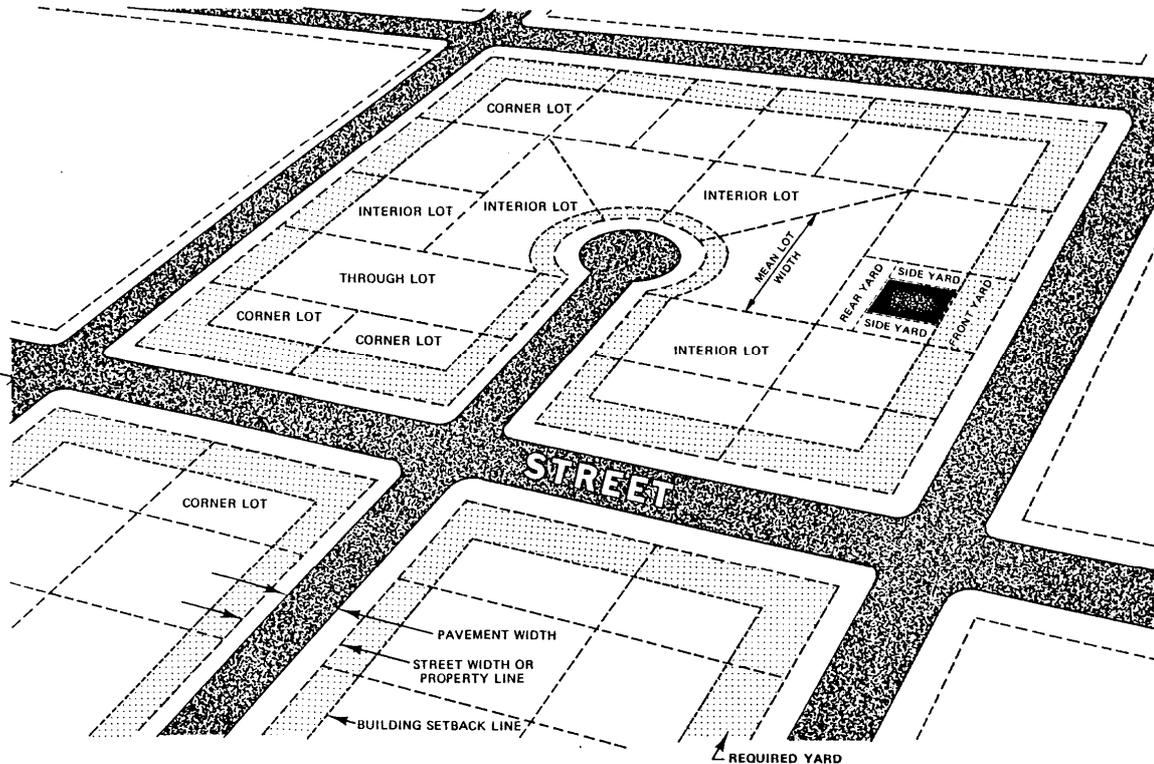
a.  *Depth* of a lot is considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the front and the rearmost points of the side lot lines in the rear.

b.  *Width* of a lot is considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty percent (80%) of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty-percent requirement shall not apply.

*Lot of record* means a lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

*Lot type*: See the diagram below which illustrates terminology with reference to types of lots.

**BLOCK DIAGRAM SHOWING LOT TYPES, SET BACKS AND TERMS . . .**



*Manufacture* means any method of processing, developing, fabricating or assembling raw materials, semifinished materials or parts into a semifinished or finished product.

*Manufactured home* means a single-family dwelling which meets all of the following standards:

- a. Is partially or entirely manufactured in a factory;
- b. Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length;
- c. Is installed on an engineered permanent foundation;
- d. Has brick, wood or cosmetically equivalent exterior siding and pitched roof; all homes with bow, or arch, trusses being expressly prohibited;
- e. Is susceptible of, and intended for, permanent connection to public utilities; and
- f. Which meets or exceeds, on an equivalent performance engineering basis, standards which include, but are not limited to, standards established by the City Building Code, the Housing and Urban Development standards or the Uniform Building Code standards. The term *equivalent performance engineering basis* means that by using engineering calculations or testing, following commonly accepted engineering practices, all components and subsystems

will perform to meet health, safety and functional requirements to the same extent as required for other single-family housing units.

Any manufactured home sited within any zoning district of the City where allowed shall be placed in its permanent location in such manner that any open space, or gap, between the bottom of said manufactured home and the ground shall be enclosed by poured concrete wall, concrete block wall or other solid masonry construction wall, said wall being plumb to the exterior walls of said manufactured home, and without regard to whether or not the exterior walls of said manufactured home are bearing walls or not. It is the intent of this requirement that no manufactured home shall be sited within any zoning district where allowed with skirting made of wood, metal, plastic, vinyl, fiberglass or any other perimeter enclosure of temporary nature.

*Medical, dental or health clinic* means any building designed for use by one (1) or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings, including but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists and podiatrists; and in which no patients are lodged overnight. This definition of medical, dental or health clinics shall not include a medical marijuana dispensary.

*Medical marijuana dispensary* shall mean the use of property for profit or otherwise which is operated by any person, including but not limited to a patient or caregiver, and which is used to cultivate, distribute, transmit, give, dispense or otherwise provide marijuana in any manner to any other person, other patient or other caregivers in accordance with Section 14 of Article XVIII of the Colorado Constitution and the implementing state statutes and administrative policies. As used in this Section *patient* and *caregiver* shall have the same meanings provided in Section 14 of Article XVIII of the Colorado Constitution and the implementing state statutes and administrative policies.

*Mobile home* means any complete structure, transportable in one (1) piece. The body of the home shall be no less than ten (10) feet in width and forty (40) feet or more in length. The home shall have three hundred twenty (320) or more square feet of living space, which is built on a permanent chassis and designed to be used as a residential dwelling with or without a permanent foundation and which is built to HUD or UBC standards and accompanied by the appropriate permanently attached documentations for the State of Colorado's wind load, live load and thermal requirements. The term *mobile home* shall not include campers, motor homes or other recreational vehicles. This definition shall not apply to those units defined as *manufactured homes*.

*Mobile home park* means any park, court, camp, lot, area, piece, parcel, tract or plot of ground upon which mobile homes are used, whether for compensation or not, including all accessory uses thereof.

*Nameplate* means a small announcement sign bearing the name only of the occupant or activity within the building. *Nameplates* shall not contain commercial advertisement.

*Nonconforming building* means the use of a building or portion thereof lawfully existing at the time of the effective date of the initial ordinance and amendments thereto which does not conform with the provisions of this Chapter.

*Nonconforming use* means any land lawfully occupied by a use, at the time of the effective date of the ordinance codified herein, which does not conform with the provisions of this Chapter.

*Nursing home* means an establishment or agency licensed by the State for the reception, board, care or treatment of three (3) or more unrelated, elderly individuals.

*Parking space, off-street* means a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

*Planning and Zoning Commission* means the Planning and Zoning Commission of the City.

*Platting or subdividing* means the process established by the duly adopted subdivision regulations by the Planning and Zoning Commission.

*Preschool: See day nursery.*

*Professional office* means any building or part thereof used by one (1) or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.

*Public utility* means any business which furnishes the general public telephone service, telegraph service, electricity, natural gas or water, and any other business so affecting the public interest as to be subject to supervision or regulation by an agency of the State.

*Retail* means to sell by small quantities in broken lots or parcels, not in bulk, directly to consumers.

*School* means a public elementary or secondary educational facility, which is under direction and control of the State Board of Education and the State Superintendent of Public Instruction and/or a parochial elementary or secondary educational facility which offers the same general curriculum as that provided by a comparable public educational facility.

*Setback* means the distance between the lot line and building line.

*Sign* means any sign or other device which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business, but does not include any display of official notice or official flag.

*Sign, advertising* means a sign which directs the attention of the public to any goods, merchandise, property, business service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.

*Sign, business* means a sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered, upon the premises where such sign is located,

or to which it is affixed. A *For Sale* sign or a *For Rent* sign relating to the property on which it is displayed is deemed a business sign.

*Sign, flashing* means any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this Chapter, any revolving illuminated sign shall be considered a flashing sign.

*Sign, illuminated* means a sign designed to give forth artificial light or designed to reflect light derived from any source.

*Sign, off-site* means a sign other than an on-site sign.

*Sign, on-site* means a sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. *On-site signs* do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

*Sign, sandwich* means an advertising or business ground sign which is constructed in such a manner to form an "A" or tent-like shape, hinged or not hinged at the top, with each angular face held at an appropriate distance by a supporting member.

*Skilled foot care* means the administering of skilled nursing foot care to an individual's feet by or under the supervision of a registered nurse licensed by the State.

*Skilled nursing foot care* includes soaking of feet as needed, thoroughly drying feet, assessment of the condition of feet, cleaning debris from feet and nails, removing dead skin tissue from feet, trimming nails, thinning, pushing back the cuticles and educating the individual as to foot-care needs.

*Special exception* means a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions if specific provision for such special exceptions is made in this Chapter. All applications for special exceptions under this Chapter shall be referred, in the first instance, for consideration to the Planning and Zoning Commission.

*Street line* means the right-of-way line of a street.

*Structural alterations* means any change or rearrangement of the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this Chapter, the following shall not be considered *structural alterations*:

- a. Attachment of a new front where structural supports are not changed;
- b. Addition of a fire escape where structural supports are not changed;
- c. New windows where lintels and support walls are not materially changed; or

d. Minor repair or replacement of nonstructural members.

*Structure* means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, *structures* include buildings, mobile homes, walls, fences, billboards and poster panels.

*Subdivision* means the division of a tract of land into one (1) or more lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term *subdivision* includes *resubdivision* and the term *resubdivision*, as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use or other purposes, which varies from the latest, approved subdivision of the same. (See Chapter 17 of this Code.)

*Therapeutic massage* means manipulation by a Colorado-certified massage therapist of soft and muscle tissue of the human body for the purpose of maintaining good health, improving physical condition, improving the well-being of the individual, enhancing muscle relaxation, relieving muscular pain and reducing stress.

*Townhouse* means an individually owned single-family dwelling unit located in a multifamily structure, where portions of the surrounding lots are sold with the dwelling units to create privately owned and maintained yards.

*Travel trailer* means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

*Use* means the purpose for which land or structures thereon are designed or intended.

*Use by right* means an automatic use which is authorized by the zoning classification.

*Variance* means a relaxation of the terms of this Chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of this Chapter would result in unnecessary and undue hardship. As used in this Chapter, a *variance* is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district, or uses in an adjoining zoning district. However, instances of alleged violation of Section 16-17-10 of this Chapter dealing with obstruction of visibility at street intersections by flora only shall be appealable to the Board of Adjustment and Appeals, the consideration of such matters not being deemed either an establishment or expansion of a use otherwise prohibited within this Subsection.

*Vocational school* means an educational institution which provides specific training in a craft or skill to be pursued as a career.

*Warehouse* means a place adapted to the reception and storage of goods. For purposes of this Chapter, the term may include any structure used to hold goods, stores or wares temporarily, or for a length of time.

*Wholesale* means selling to retailers or jobbers, rather than to consumers.

*Wind energy conversion system (WECS)* means any device such as a wind generator or wind turbine which is designed to utilize the force of wind to power machinery and/or produce another form of usable energy.

*Yard* means a required open space other than a court, unoccupied and unobstructed by a structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

*Yard, front* means a yard extending between side lot lines across the front of a lot adjoining a public street.

*Yard, rear* means a yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations, with its inner edge parallel with the rear lot line.

*Yard, side* means a yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half-depth front yards have been established shall be considered side yards. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations, with its inner edge parallel with the side lot line. For the purposes of these regulations, a two-family dwelling, or a multifamily dwelling shall be considered as one (1) building occupying one (1) lot.

*Yard, special* means a yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term *side yard* nor the term *rear yard* clearly applies. In such cases, the Building Official shall require a yard with minimum dimensions, as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

*Zone or district* means a portion, area or section of the City, for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open spaces about buildings, are established. (Ord. 839 §1800, 1986; Ord. 890 §1, 1991; Ord. 907, 1992; Ord. 915 §§2, 3, 1993; Ord. 921, 1993; Ord. 947, 1995; Ord. 972 §§3, 4, 5, 1996; Ord. 1004 §4, 1999; Ord. 1022 §1, 2000; Ord. 1050, 2002; Ord. 1088 §3, 2006; Ord. 1053 §§1—3, 2010)

**Sec. 16-1-20. Establishment of districts; Official Zoning Map.**

(a) The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference.

(b) The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk and bear the seal of the City under the following words:

"This is to certify that this is the Official Zoning Map referred to in Section 16-1-20 of the Lamar Municipal Code."

(c) If, in accordance with the provisions of this Chapter, and Section 31-23-301 et seq., C.R.S., changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within thirty (30) days after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows:

"On \_\_\_\_\_, by official action of the City Council, the following changes were made on the Official Zoning Map: \_\_\_\_\_."

Said entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this Chapter, which involves matter portrayed on the Official Zoning Map, shall become effective until after such change and entry has been made on said map.

(d) No changes of any nature shall be made on the Official Zoning Map or matter shown thereon, except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this Chapter and punishable as provided under Section 16-21-80 of this Chapter.

(e) Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map, which shall be located in the office of the City Clerk, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City.

(f) In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \_\_\_\_\_ as part of Ordinance No. \_\_\_\_ of the City of Lamar, Colorado."

Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment. (Ord. 839 §200, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-30. Interpretation of district boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;
- (6) Boundaries indicated as parallel to or extensions of features indicated in Subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections (1) through (6) above, the Board of Adjustment and Appeals shall interpret the district boundaries;
- (8) Where a district boundary line divides a lot which was in single ownership at the time of adoption of the ordinance codified herein, the Board of Adjustment and Appeals may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot. (Ord. 839 §300, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-40. Application of district regulations.**

The regulations set by this Chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- (1) No building, structure or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located;
- (2) No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Chapter shall be

included as part of a yard, open space or off-street parking or loading space similarly required for any other building;

(3) No yard or lot existing at the time of adoption of the ordinance codified herein shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance codified herein shall meet at least the minimum requirements established by this Chapter;

(4) All territory which may hereafter be annexed to the City shall be annexed as O-E Open Estates, until or unless changed by ordinance. (Ord. 839 §400, 1986, Ord. 1022 §1, 2000)

**Sec. 16-1-50. Nonconforming lots, structures and uses.**

(a) Within the districts established by this Chapter or amendments that may later be adopted, there exist:

(1) Lots;

(2) Structures;

(3) Uses of land and structures; and

(4) Characteristics of use which were lawful before the ordinance codified herein was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Chapter or future amendments. It is the intent of this Chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(b) To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance codified herein, and upon which actual building construction has been carried on within a ninety-day limit. *Actual construction* is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on within a ninety-day limit. (Ord. 839 §510, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-60. Nonconforming lots of record.**

(a) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance codified herein, notwithstanding, limitations imposed by other provisions of this Chapter. Such lot must be in separate ownership, and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to the area or width, or

both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment and Appeals.

(b) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance codified herein, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Chapter, nor shall any division of any parcel be made which creates a lot with area or width below the requirements stated in this Chapter. (Ord. 839 §520, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-70. Nonconforming uses of land or land with minor structures.**

Where at the time of adoption of the ordinance codified herein, lawful use of land exists which would not be permitted by the regulations imposed by this Chapter, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the ordinance or any amendment codified herein;

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of the ordinance or any amendment codified herein;

(3) If any such nonconforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this Chapter, for the district in which such land is located;

(4) No additional structure not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land. (Ord. 839 §530, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-80. Nonconforming structures.**

Where a lawful structure exists at the effective date of the ordinance or any amendment codified herein, that could not be built under the terms of this Chapter by reasons of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;

(2) Should such nonconforming structure or nonconforming portion of a structure be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement

cost at the time of destruction, it shall not be reconstructed, except in conformity with the provisions of this Chapter; and

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located. (Ord. 839 §540, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-90. Nonconforming uses of structures or structures and premises in combination.**

If lawful use involving an individual structure with a replacement cost of one thousand dollars (\$1,000.00) or more, or of a structure and premises in combination, exists at the effective date of the ordinance codified herein or any amendment thereto, that would not be allowed in the district under the terms of this Chapter, said use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this Chapter, in the district in which it is located, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located;

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified herein, but no such use shall be extended to occupy any land outside such building;

(3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception, be changed to another nonconforming use provided that the Board of Adjustment and Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment and Appeals may require appropriate conditions and safeguards in accord with the provisions of this Chapter;

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three-year period, except when government action impedes access to the premises in combination, the structure and/or structure and premises, shall not thereafter be used, except in conformity with the regulations of the district in which it is located;

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. *Destruction* for the purpose of this Subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at the time of destruction. (Ord. 839 §550, 1986; Ord. 1022 §1, 2000)

**Sec. 16-1-100. Repairs and maintenance.**

(a) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

(b) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt, except in conformity with the regulations of the district in which it is located.

(c) Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official. (Ord. 839 §560, 1986)

**Sec. 16-1-110. Uses under special exception provisions not nonconforming uses.**

Any use which is permitted as a special exception in a district under the terms of this Chapter, other than a change through Board of Adjustment and Appeals action from a nonconforming use to another use not generally permitted in the district, shall not be deemed a nonconforming use in such district, but shall, without further action, be considered a conforming use. (Ord. 839 §570, 1986)

**Sec. 16-1-120. Schedule of District Regulations adopted.**

District regulations shall be as set forth in the Schedule of District Regulations, hereby adopted by reference and declared to be a part of this Chapter. District regulations shall also include the associated provisions of Articles XVII and XVIII of this Chapter. (Ord. 839 §600, 1986)

**ARTICLE II**

**F-P Floodplain District**

**Sec. 16-2-10. Intent and purpose of district.**

The F-P Floodplain District is intended for application in those areas of the community which are subject to inundation from surplus stormwater as defined by the Flood Insurance Study and accompanying Floodway Map, and any subsequent additions or amendments thereto, prepared for the City by the Federal Insurance Administration. This zone is intended for application throughout the zoning jurisdiction in locations where official floodplain delineation has been established. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof, to minimize the hazard of loss of lives and property caused by floods, and to secure safety from floods through the confinement of floods within reasonable limits by regulating and restricting areas of development along or in natural water courses and drainageways. (Ord. 839 §605.01, 1986)

**Sec. 16-2-20. District regulations.**

In the F-P District no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the permitted uses in the parent district to which this district is made a part, provided that such uses and structures meet the minimum requirements of Section 16-2-30 below. (Ord. 839 §605.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-2-30. Special use regulations.**

(a) Notwithstanding the requirements of the parent district, the other requirements of this Chapter and the detailed regulations present in Article XXIII of this Chapter concerning minimizing flood damage, the following regulations shall supplement the regulations of the parent district of which this district is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations. Where, by reason of flooding potential, and where the special flood studies and map indicate the possibility of detrimental or limiting conditions for development, no person shall initiate any development or substantial improvement, or cause the same to be done, without first obtaining a separate permit for development for each such building or structure in accordance with the detailed requirements of Article XXIII of this Chapter. The application for a development permit shall be prepared in writing upon forms furnished for that purpose and shall be filed in the office of the City Clerk. The application shall be accompanied by explanatory background information defined in Article XXIII of this Chapter, which shall include as a minimum:

- (1) Identification and description of the work to be covered by the permit;
- (2) Description of the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
- (3) Indication of the use of occupancy for which the proposed work is intended;
- (4) Provision of plans and specifications for proposed construction;
- (5) Signature of the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority; and
- (6) Provision of other information as reasonably may be required by the Building Official.

(b) In areas within the municipal zoning jurisdiction which are designated as F-P Floodplain, all developed uses of land and buildings shall meet the minimum standards and requirements for development within flood hazard areas as outlined and defined in Article XXIII of this Chapter. (Ord. 839 §605.03, 1996; Ord. 1022 §1, 2000)

**Sec. 16-2-40. Intensity of use regulations.**

The lot coverage and intensity of use of the parent district of which this district is made a part shall be the maximum allowable. (Ord. 839 §605.04, 1986)

**Sec. 16-2-50. Height regulations.**

The height requirements of the parent district of which this district is made a part shall be the maximum height requirements subject to additional requirements as prescribed by this Chapter. (Ord. 839 §605.05, 1986)

**Sec. 16-2-60. Yard regulations.**

The yard requirements of the parent district of which this district is made a part shall be the minimum yard requirements subject to additional requirements as prescribed by this Chapter. (Ord. 839 §605.06)

**Sec. 16-2-70. Sign regulations.**

The sign regulations of the parent district of which this district is made a part shall be the minimum requirements for sign regulations. (Ord. 839 §605.07, 1986)

**Sec. 16-2-80. Parking regulations.**

The parking regulations of the parent district of which this district is made a part shall be the minimum requirements for parking subject to additional requirements as prescribed by this Chapter. (Ord. 839 §605.08, 1986)

**Sec. 16-2-90. Transportation units used for storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §1, 2001)

**ARTICLE III**

**A-L Agricultural District**

**Sec. 16-3-10. Intent and purpose of district.**

The A-L Agricultural District is established for the purpose of protecting agricultural uses by restricting and regulating density, land coverage and land use. (Ord. 839 §610.01, 1986)

**Sec. 16-3-20. District regulations.**

In the A-L District no building or land shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged or designed for other than one (1) of the uses listed in Section 16-3-30 below. (Ord. 839 §610.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-3-30. Uses by right.**

The following shall be uses by right in the A-L District:

- (1) General farm operations;

- (2) Single-family dwelling units on two (2) or more acres;
- (3) Mobile homes incidental to general farm operations on the same tract or parcel with the principal dwelling, provided that the mobile home is used exclusively by the farm family or employees;
- (4) Churches and similar places of worship and parish houses;
- (5) Golf courses and other open land recreational uses, except miniature golf courses, driving tees or other intensive commercial uses, such as automobile race tracks or amusement parks;
- (6) Greenhouses, nurseries and garden centers;
- (7) Institutions of higher learning, including dormitory accommodations, when located on the same tract as the educational buildings;
- (8) Public and semipublic parks, playgrounds, campgrounds, fishing preserves or other recreational areas and community buildings owned and operated by a public agency or nonprofit organization;
- (9) Public or parochial elementary, junior high and high schools, and private schools with equivalent curriculum;
- (10) Stands for sale of agricultural products or commodities;
- (11) Customary accessory uses and structures located on the same tract with the principal use, including barns, sheds, tennis courts, swimming pools, private garages, garden houses, barbecue ovens, fireplaces and similar uses;
- (12) Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed;
- (13) The renting of not to exceed two (2) sleeping rooms with a total occupancy of not to exceed three (3) persons for whom board may be furnished, but with the prohibition of separate culinary accommodations for such tenants;
- (14) Utility lines and facilities necessary for public service, and including refuse disposal area conducted under a landfill or sanitary fill method, public and semipublic storage and repair facilities, sewage disposal, water supply and treatment facilities, dams and power plants; and
- (15) Water sheds, wildlife habitats, wildlife production areas, and game management areas or other conservation uses.
- (16) Correctional facilities provided they comply with the following additional requirements:
  - a. In order to accommodate potential expansion of the facilities, the site size shall be a minimum of fifteen (15) acres in size.

b. The facility shall be established at least one thousand (1,000) feet (measured from property line to property line) from the nearest property which is residentially zoned or used.

c. The facility shall not be established within one thousand (1,000) feet (measured from property line to property line) from any church or place of worship, day care facility, park educational institution, library, museum, community center, residential district or children's amusement park.

d. Site development shall be in conformance with the landscaping requirements of the zoning district.

e. The constitution and operation of the correctional facility shall comply with all applicable federal, state and local regulatory requirements.

f. The City Council may deny the locating of a correctional facility in an Agricultural (A-L) District when the use would be detrimental to nearby properties, or in the alternative, the City Council may add conditions or safeguards to the approval of a correctional facility location in order to protect the health and welfare of citizens. (Ord. 839 §610.03, 1986; Ord. 1022 §1, 2000; Ord. 1060 §1, 2003)

**Sec. 16-3-40. Special exceptions.**

The following uses may be allowed in the A-L District by special use permit when submitted, reviewed and approved by the Board of Adjustment and Appeals and subject to conditions as the Board may impose:

(1) Any public building erected or land used by any department of the City, County, state or federal government;

(2) Airport or heliport;

(3) Cemetery or crematory;

(4) Day care centers;

(5) Nursing homes, rest homes, convalescent homes and homes for the aged, on a tract of land three (3) acres or larger;

(6) Radio, television, navigation or military control station, transmitter or tower;

(7) Animal hospital or kennel;

(8) Wrecking, salvage or junk yard, provided that the storage yard is completely enclosed with six-foot solid fence or wall and located not less than three hundred (300) feet from a residential district zone and subject to the following:

a. The operation shall be conducted completely within the enclosed area. The fence or wall shall be of uniform texture and color and shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the area. The fence

or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard;

b. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosing fence or wall or within the public right-of-way; and

c. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department, and in accordance with state requirements. Said burning, when permitted, shall be done during daylight hours only.

(9) Exploration and extraction of oil and natural gas. (Ord. 839 §610.03.16, 1986; Ord. 890 §2, 1991; Ord. 1022 §1, 2000)

**Sec. 16-3-50. Prohibited uses and structures.**

Any use or structure permitted in any other district and not specifically permitted in this district is prohibited in this district. (Ord. 839 §610.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-3-60. Minimum lot requirements.**

Tracts in the A-L District shall be two (2) acres or larger. (Ord. 839 §610.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-3-70. Minimum setback requirements.**

The minimum setback requirements in the A-L District shall be as follows:

(1) From the back property line: twenty-five (25) feet for dwellings; fifty (50) feet for all other uses; fifteen (15) feet for residential accessory uses;

(2) From the front property line: fifty (50) feet for all uses;

(3) From the side property lines: fifteen (15) feet for dwellings and accessory uses; thirty (30) feet for all other uses. (Ord. 839 §610.05.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-3-80. Maximum building height.**

(a) When a building is within one hundred fifty (150) feet of a dwelling district zone, said building shall not exceed forty-five (45) feet in height, or as required for fire protection.

(b) When a building or structure is more than one hundred fifty (150) feet from a dwelling district zone, said building or structure shall not exceed seventy-five (75) feet in height. (Ord. 839 §610.06, 1986)

**Sec. 16-3-90. Minimum off-street parking and loading requirements.**

The minimum off-street parking and loading requirements in the A-L District shall be as follows:

(1) One (1) space per dwelling unit;

(2) Schools:

- a. High schools, colleges or universities: ten (10) spaces per classroom;
- b. Junior high or middle schools: one and one-half (1½) spaces per classroom;
- c. Elementary schools: one and one-half (1½) spaces per classroom.

(3) Churches: one (1) space per each four (4) seats;

(4) All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §610.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-3-100. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §610.08, 1986)

**Sec. 16-3-110. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §610.09, 1986)

**Sec. 16-3-120. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. §610.10, 1986)

## **ARTICLE IV**

### **E-A Education Agricultural District**

**Sec. 16-4-10. Intent and purpose of district.**

The E-A Education Agricultural District is intended for certain institutional, recreational and educational purposes to allow limited agriculture, including livestock for display and educational purposes. (Ord. 839 §615.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-20. District regulations.**

In the E-A District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-4-30 below. (Ord. 839 §615.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-30. Uses by right.**

The following shall be uses by right in the E-A District:

- (1) Any recreational or educational use, including those sponsored by civic groups approved by the City and the County, and noncommercial entities;

(2) County fairs, rodeos, parks, circuses, carnivals, sports arena events and other like entertainments sponsored by nonprofit organizations;

(3) Farming, forestry, agriculture, poultry and livestock; buildings and uses for educational and recreational purposes, but excluding feed lots;

(4) Any public building erected or any land used by any department of government; and

(5) Buildings, structures or uses required in addition to, and in conjunction with, any use permitted in the district. (Ord. 839 §615.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-40. Special exceptions.**

Day care centers shall be allowed as special exceptions in the E-A District. (Ord. 890 §2, 1991; Ord. 1022 §1, 2000)

**Sec. 16-4-50. Prohibited uses and structures.**

Any use or structure permitted in any other district and not specifically permitted in this district, is prohibited in this district. (Ord. 839 §615.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-60. Minimum lot requirements.**

There are no minimum lot requirements in the E-A District. (Ord. 839 §615.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-70. Minimum setback requirements.**

The minimum setback requirements in the -A District shall be as follows:

(1) From the back property line: twenty-five (25) feet for all uses;

(2) From the front property line: fifty (50) feet for all uses; and

(3) From the side property lines: twenty (20) feet for all uses. (Ord. 839 §615.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-80. Maximum height of structures.**

The maximum height of structures in the E-A District shall be as follows for all uses: four (4) stories, forty-five (45) feet. (Ord. 839 §615.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-90. Minimum off-street parking and loading requirements.**

The minimum off-street parking and loading requirements in the E-A District are as follows:

(1) One (1) space per dwelling unit;

(2) High schools, colleges or universities: ten (10) spaces per classroom;

- (3) Junior high or middle schools: one and one-half (1½) spaces per classroom;
- (4) Elementary schools: one and one-half (1½) spaces per classroom;
- (5) Churches: one (1) space per each four (4) seats; and
- (6) All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §615.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-4-100. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §615.09, 1986)

**Sec. 16-4-110. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §615.10, 1986)

**Sec. 16-4-120. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §615.11, 1986)

## **ARTICLE V**

### **O-E Open Estates District**

**Sec. 16-5-10. Intent and purpose of district.**

The O-E Open Estates District is intended for certain rural areas where subdivisions of year-round dwellings are desired, but where limited agriculture may still be practiced. (Ord. 839 §620.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-5-20. District regulations.**

In the O-E District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-5-30 below. (Ord. 839 §620.02, 1986, Ord. 1022 §1, 2000)

**Sec. 16-5-30. Uses by right.**

The following shall be uses by right in the O-E District:

- (1) Single-family residences;
- (2) Parks and golf courses, except miniature golf and other similar commercial operations;
- (3) Temporary structures incidental to construction, but only for the period of work;
- (4) Schools: high schools, junior high schools and elementary schools;

- (5) Churches and mortuaries;
- (6) Farming, forestry, agricultural buildings and uses, but excluding feed lots;
- (7) Two (2) farm-type animals, or such greater number as may be approved by the issuance of a special permit under Section 16-20-60 upon such terms and conditions as may be deemed appropriate by the Planning and Zoning Commission.
- (8) Hospitals, medical clinics and professional offices for doctors, lawyers, accountants, engineers and other business offices not merchandising or manufacturing on the premises, provided that maximum ground floor space shall be two thousand (2,000) square feet, and all parking shall be provided off-street and not in the required setbacks. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises; and
- (9) Home occupations, provided that:
  - a. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a residence or outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises; and
  - b. Vehicle repair shall be conducted only in completely enclosed structures. (Ord. 839 §620.03, 1986; Ord. 1022 §1, 2000; 1986; Ord. 1125 §1, 2009)

**Sec. 16-5-40. Special exceptions.**

After public notice and hearing and appropriate conditions and safeguards, the Board of Adjustment and Appeals may permit in the O-E District, as special exceptions:

- (1) Any public building or land used by any department of government;
- (2) Garages for the storage of automobiles and/or one (1) commercial vehicle;
- (3) Structures and buildings incidental to the provision of public utilities;
- (4) Buildings, structures or uses required in addition to, and in conjunction with, any use by right in the district;
- (5) Nursing homes and homes for the aged on a tract of land one (1) acre or larger; and
- (6) Day care centers. (Ord. 839 §620.03, 1986; Ord. 890 §2, 1991; Ord. 1022 §1, 2000)

**Sec. 16-5-50. Prohibited uses and structures.**

Any use or structure permitted in any other district, and not specifically permitted in this district, is prohibited in this district. (Ord. 839 §620.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-5-60. Minimum lot requirements.**

The minimum lot requirements in the O-E District are as follows:

- (1) Area: twenty-one thousand seven hundred eighty (21,780) square feet;
- (2) Minimum setback requirements from the following property lines shall be:
  - a. From the back property line: ten (10) feet for dwellings; thirty (30) feet for all other uses; ten (10) feet for residential accessory uses;
  - b. From the front property line: fifty (50) feet, when the lot faces state or federally designated highways; thirty (30) feet on all other uses;
  - c. From the side property lines: ten (10) feet for dwellings and accessory uses; thirty (30) feet for all other uses. (Ord. 839 §620.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-5-70. Minimum floor area.**

The minimum floor area for single-family residences in the O-E District is one thousand two hundred (1,200) square feet. (Ord. 839 §620.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-5-80. Maximum height of structures.**

The maximum height of structures of two and one-half (2½) stories in the O-E District is thirty-five (35) feet. (Ord. 839 §620.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-5-90. Minimum off-street parking and loading requirements.**

The minimum off-street parking and loading requirements in the O-E District are as follows:

- (1) Two (2) spaces per dwelling unit;
- (2) Schools:
  - a. High schools, colleges or universities: ten (10) spaces per classroom;
  - b. Junior high or middle schools: one and one-half (1½) spaces per classroom;
  - c. Elementary schools: one and one-half (1½) spaces per classroom;
- (3) Churches: one (1) space per each four (4) seats;

(4) All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §620.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-5-100. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §620.09, 1986)

**Sec. 16-5-110. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §620.10, 1986)

**Sec. 16-5-120. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §620.11, 1986)

## **ARTICLE VI**

### **R-1 Residence District**

**Sec. 16-6-10. Intent and purpose of district.**

The R-1 Residence District is intended to be primarily a single-family residential district with uses customarily incidental thereto permitted. (Ord. 839 §625.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-20. District regulations.**

In the R-1 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-6-30 below. (Ord. 839 §625.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-30. Uses by right.**

The following shall be uses by right in the R-1 District:

- (1) Single-family residences;
- (2) Day care homes;
- (3) Parks and golf courses except miniature golf and similar commercial operations;
- (4) Temporary structures incidental to construction, but only for the period of work;
- (5) High schools, junior high schools and elementary schools;
- (6) Churches; and

(7) Major vehicle repair shall be conducted only in a completely enclosed building or structure. (Ord. 839 §625.03, 1986; Ord. 890 §2, 1991; Ord. 1022 §1, 2000)

**Sec. 16-6-40. Special exceptions.**

After public notice and hearing and appropriate conditions and safeguards, the Board of Adjustment and Appeals may permit in the R-1 District, as special exceptions:

(1) Buildings, structures or uses required in addition to, and in conjunction with, any use by right in this district;

(2) Large day care homes;

(3) Structures and buildings incidental to the provision of public utilities;

(4) Nursing homes and homes for the aged;

(5) Any public building or land used by any department of government;

(6) Home occupations, provided that:

a. Only one (1) person other than residents of the premises shall be engaged in such occupation;

b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation other than one (1) sign, not exceeding two (2) square feet in area, nonilluminated and mounted flat against the wall of the principal building;

d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;

e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;

(7) Hospitals, provided that:

a. No equipment or process shall be used in such hospital which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;

b. All parking shall be provided off-street and not in the required setbacks. (Ord. 839 §625.03.07, 1986; Ord. 890 §2, 1991; Ord. 1022 §1, 2000)

**Sec. 16-6-50. Prohibited uses and structures.**

(a) Any use or structure permitted in any other district, and not specifically permitted in this district, is prohibited in this district.

(b) For aesthetic purposes, manufactured homes of all types are prohibited in this district. (Ord. 839 § 625.04, 1986; Ord. 1004 §1, 1999; Ord. 1022 §1, 2000)

**Sec. 16-6-60. Minimum lot requirements**

The minimum lot requirements in the R-1 District are as follows:

(1) Area:

- a. For all residences: eight thousand (8,000) square feet;
- b. Hospitals: one (1) acre; and
- c. Schools, churches and nursing homes: one-half (½) acre;

(2) Width:

- a. All residences: seventy (70) feet;
- b. Schools, churches and hospitals: one hundred forty (140) feet; and
- c. Nursing homes: one hundred forty (140) feet. (Ord. 839 §625.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-70. Minimum setback requirements.**

In the R-1 District, the minimum setback from the following property lines shall be:

(1) From the back property line:

- a. All residences: ten (10) feet; and
- b. Schools, churches and hospitals: forty (40) feet;

(2) From the front property line:

- a. All residences and nursing homes: fifteen (15) feet and not less than thirty (30) feet back from the curb, unless twenty-five percent (25%) of that portion of the block fronting upon the same street is improved with existing structures which have observed a greater amount of setback, in which case no building shall be placed any nearer to the front line than that existing dwelling nearest the front line; and

- b. Schools, churches and hospitals: forty (40) feet;
- (3) From the side property lines:
  - a. Single-family residences: seven (7) feet;
  - b. Nursing homes: fifteen (15) feet; and
  - c. Schools, churches and hospitals: thirty (30) feet. (Ord. 839 §625.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-80. Minimum floor area.**

The minimum floor area requirements for the R-1 District are as follows:

- (1) Single-family residences: one thousand (1,000) square feet; and
- (2) Nursing homes: building to lot ratio of one (1) square foot per five and four tenths (5.4) square feet. (Ord. 839 §625.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-90. Maximum height of structures.**

The maximum height of structures requirements for the R-1 District are, for two and one-half (2½) stories: thirty-five (35) feet. (Ord. 839 §625.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-100. Minimum off-street parking and loading requirements.**

The minimum off-street parking and loading requirements for the R-1 District are as follows:

- (1) Single-family residences: one (1) space per dwelling unit;
- (2) Schools:
  - a. High schools, colleges or universities: ten (10) spaces per classroom;
  - b. Junior high or middle schools: one and one-half (1½) spaces per classroom;
  - c. Elementary schools: one and one-half (1½) spaces per classroom;
- (3) Churches: one (1) space per each four (4) seats;
- (4) Hospitals: three (3) spaces per each bed; and
- (5) All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §625.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-6-110. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §625.10, 1986)

**Sec. 16-6-120. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §625.11, 1986)

**Sec. 16-6-130. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §625.12, 1986)

**Sec. 16-6-140. Transportation units used for storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §2, 2001)

**ARTICLE VII**

**R-2 Residence District**

**Sec. 16-7-10. Intent and purpose of district.**

The R-2 Residence District is intended to be for single-unit, two-unit, three-unit and four-unit residential structures with uses customarily incidental thereto permitted. (Ord. 839 §630.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-20. District regulations.**

In the R-2 District, no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-7-30 below. (Ord. 839 §630.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-30. Uses by right.**

The following shall be uses by right in the R-2 District:

- (1) Single-unit, two-unit, three-unit and four-unit residential buildings or structures, and specifically including UBC-approved and HUD-approved manufactured homes;
- (2) Parks and golf courses, except miniature golf and similar commercial operations;
- (3) High schools, junior high schools, middle schools and elementary schools;
- (4) Day care centers;
- (5) Large day care homes;
- (6) Day nurseries or preschool nurseries;
- (7) Nursing homes for the aged;
- (8) Churches and mortuaries;
- (9) Boarding houses;

- (10) Temporary structures incidental to construction, but only for the period of work;
- (11) Major vehicle repair conducted only in a completely enclosed building or structure; and
- (12) Home occupations, provided that:
  - a. Only one (1) person, other than residents of the premises, shall be engaged in such occupation;
  - b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
  - c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, other than one (1) sign not exceeding two (2) square feet in area, nonilluminated and mounted flat against the wall of the principal building;
  - d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; and
  - e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. (Ord. 839 §630.03, 1986; Ord. 890 §2, 1991; Ord. 972 §1, 1996; Ord. 1004 §2, 1999; Ord. 1022 §1, 2000)

**Sec. 16-7-40. Mobile homes.**

- (a) Mobile homes shall only be allowed in an R-2 District north of Parmenter Street.
- (b) Such mobile homes are to be affixed to the lot by being permanently connected to City utilities after removal of all wheels and/or other undercarriage necessary for transport of such mobile home.
- (c) No mobile home without at least HUD certification shall be allowed in an R-2 District without first obtaining a permit and inspection from the Building Official.
- (d) All crawl space beneath any such mobile home on any lot in this district shall be enclosed in accordance with plans approved by the Building Official. (Ord. 839 §630.03.11, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-50. Special exceptions.**

After public notice and hearing and appropriate conditions and safeguards, the Board of Adjustment and Appeals may permit in the R-1 District, as special exceptions:

- (1) Buildings, structures or uses required in addition to and in conjunction with any use by right in this district;
- (2) Structures and buildings associated with the provision of public utilities;
- (3) Any public building or land used by any department of government;
- (4) Grocery stores, provided that the maximum ground floor square footage shall be two thousand (2,000) square feet; and
- (5) Hospitals, provided that:
  - a. No equipment or process shall be used in such hospital which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, and
  - b. All parking shall be provided off-street and not in the required setbacks.
- (6) Skilled foot care operations in existing buildings.
- (7) Therapeutic massage operations in existing buildings.
- (8) Medical, dental or health clinics. (Ord. 839 §630.03.12, 1986; Ord. 1088 §1, 2006; Ord. 1128 §1, 2009)

**Sec. 16-7-60. Prohibited uses and structures.**

Any use or structure permitted in any other district and not specifically permitted in this district is prohibited in this district. (Ord. 839 §630.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-70. Minimum lot requirements.**

The minimum lot requirements for the R-2 District shall be as follows:

- (1) Area:
  - a. Single-family and two-family residences: seven thousand (7,000) square feet;
  - b. Three-family or four-family residences and boarding houses: two thousand (2,000) square feet per dwelling unit for three-family units; and one thousand five hundred (1,500) square feet per dwelling unit for four-family residences and boarding houses;
  - c. Hospitals and mortuaries: one (1) acre;

- d. Schools and churches: one-half (½) acre; and
  - e. Grocery stores: ten thousand (10,000) square feet.
- (2) Width:
- a. Single-family and two-family residences: fifty (50) feet;
  - b. Three-family and four-family residences and boarding houses: seventy-five (75) feet;
  - c. Schools, churches, hospitals and mortuaries: one hundred forty (140) feet; and
  - d. Grocery stores: one hundred (100) feet. (Ord. 839 §630.05; Ord. 1022 §1, 2000)

**Sec. 16-7-80. Minimum setback requirements.**

In the R-2 District, the minimum setback from the following property lines shall be:

- (1) From the back property line:
- a. Single-family and two-family residences: ten (10) feet;
  - b. Three-family and four-family residences and boarding houses: ten (10) feet;
  - c. Schools, churches, hospitals and mortuaries: five (5) feet; and
  - d. Grocery stores: thirty-five (35) feet.
- (2) From the front property line:
- a. Single-family and two-family residences: not less than thirty (30) feet from the curb, and at least fifteen (15) feet from the front property line, unless twenty-five percent (25%) of that portion of the block fronting upon the same street is improved with existing structures which have observed a greater amount of setback, in which case no building shall be placed any nearer the front line than the existing dwelling nearest the front line;
  - b. Three-family and four-family unit residences and boarding houses: thirty (30) feet;
  - c. Schools, churches, hospitals and mortuaries: thirty (30) feet; and
  - d. Grocery stores: thirty (30) feet.
- (3) From the side property lines:
- a. Single-family and two-family residences: five (5) feet;
  - b. Three-family and four-family residences and boarding houses: five (5) feet;
  - c. Schools, churches, hospitals and mortuaries: thirty (30) feet; and

d. Grocery stores: ten (10) feet.

(4) Side property line setback requirements do not apply to individual interior units of two-family, three-family and four-family structures. (Ord. 839 §630.06.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-90. Minimum floor area.**

The minimum floor area in the R-2 District for the following residences shall be as follows:

(1) Single-family and two-family unit residences: eight hundred (800) square feet per family unit; and

(2) Three-family and four-family unit residences and boarding houses: four hundred fifty (450) square feet per unit. (Ord. 839 §630.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-100. Maximum height of structures.**

The maximum height of structures in the R-2 District shall be, for all uses four (4) stories: forty-five (45) feet. (Ord. 839 §630.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-110. Minimum off-street parking and loading requirements.**

The minimum off-street parking and loading requirements for the R-2 District are as follows:

(1) Single-family, two-family, three-family and four-family unit residences and boarding houses: two (2) spaces per dwelling unit;

(2) Churches: one (1) space per each four (4) seats;

(3) Schools:

a. High schools, colleges or universities: ten (10) spaces per classroom,

b. Junior high or middle schools: one and one-half (1½) spaces per classroom, and

c. Elementary schools: one and one-half (1½) spaces per classroom;

(4) Grocery stores: two (2) spaces per five hundred (500) square feet of floor space; and

(5) Loading requirements: All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §630.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-7-120. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §630.10, 1986)

**Sec. 16-7-130. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §630.11, 1986)

**Sec. 16-7-140. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §630.12, 1986)

**ARTICLE VIII**

**R-3 Residence District**

**Sec. 16-8-10. Intent and purpose of district.**

The R-3 Residence District is intended to be for single-family, two-family, three-family, four-family and multifamily unit residential structures with uses customarily incidental thereto permitted. (Ord. 839 §635.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-20. District regulations.**

In the R-3 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-8-30 below. (Ord. 839 §635.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-30. Uses by right.**

The following shall be uses by right in the R-3 District:

- (1) Single-family, two-family, three-family, four-family and multifamily residences, and specifically including UBC-approved and HUD-approved manufactured homes;
- (2) Parks and golf courses except miniature golf and similar commercial operations;
- (3) High schools, junior high schools, middle schools and elementary schools;
- (4) Day care centers;
- (5) Day care homes;
- (6) Large day care homes;
- (7) Day nurseries or preschool nurseries;
- (8) Nursing homes for the aged;
- (9) Churches and mortuaries;
- (10) Boarding houses;
- (11) Temporary structures incidental to construction, but only for the period of work;
- (12) Major vehicle repair conducted only in a completely enclosed structure; and

(13) Home occupations, provided that:

a. Only one (1) person other than residents of the premises shall be engaged in such occupation,

b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation,

c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, other than one (1) sign, not exceeding two (2) square feet in area, nonilluminated and mounted flat against the wall of the principal building,

d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard, and

e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. (Ord. 839 §635.03, 1986; Ord. 890 §2, 1991; Ord. 972 §2, 1996; Ord. 1004 §3, 1999; Ord. 1022 §1, 2000)

**Sec. 16-8-40. Mobile homes.**

(a) Mobile homes shall only be allowed in an R-3 District north of Parmenter Street.

(b) Such mobile homes shall be affixed to the lot by being permanently connected to City utilities after removal of all wheels and/or other undercarriage necessary for transport of such mobile homes.

(c) No mobile home without at least HUD certification shall be allowed in an R-3 District without first obtaining a permit and inspection from the Building Official.

(d) All crawl spaces beneath any such mobile home on any lot in this district shall be enclosed in accordance with plans approved by the Building Official. (Ord. 839 §635.03.11, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-50. Special exceptions.**

After public notice and hearing and appropriate conditions and safeguards, the Board of Adjustment and Appeals may permit in the R-3 District, as special exceptions:

- (1) Buildings, structures or uses required in addition to and in conjunction with any use by right in this district;
- (2) Structures and buildings associated with the provision of public utilities;
- (3) Any public building or land used by any department of government;
- (4) Grocery stores, provided that the maximum ground floor square footage shall be two thousand (2,000) square feet;
- (5) Hospitals, provided that:
  - a. No equipment or process shall be used in such hospital which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
  - b. All parking shall be provided off-street and not in the required setbacks.
- (6) Skilled foot care operations in existing buildings.
- (7) Therapeutic massage operations in existing buildings.
- (8) Medical, dental or health clinics. (Ord. 839 §635.03.12, 1986; Ord. 890 §2; 1991; Ord. 1088 §2, 2006; Ord. 1128 §2, 2009)

**Sec. 16-8-60. Prohibited uses and structures.**

Any use or structure permitted in any other district and not specifically permitted in this district is prohibited in this district. (Ord. 839 §635.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-70. Minimum lot requirements.**

The minimum lot requirements in the R-3 District shall be as follows:

- (1) Area:
  - a. Single-family and two-family unit residences: seven thousand (7,000) square feet;
  - b. Multifamily residences and boarding houses: two thousand (2,000) square feet per dwelling unit for three-family units, and one thousand five hundred (1,500) square feet per dwelling unit for four-or-more family unit residences and boarding houses;
  - c. Hospitals and mortuaries: one (1) acre;
  - d. Schools and churches: one-half (½) acre; and
  - e. Grocery stores: ten thousand (10,000) square feet.

(2) Width:

- a. Single-family and two-family residences: fifty (50) feet;
- b. Three-family, four-family and multifamily unit residences and boarding houses: seventy-five (75) feet;
- c. Schools, churches, hospitals and mortuaries: one hundred forty (140) feet; and
- d. Grocery stores: one hundred (100) feet. (Ord. 839 §635.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-80. Minimum setback requirements.**

(a) In the R-3 District, the minimum setback from the back property lines shall be:

- (1) Single-family and two-family unit residences: ten (10) feet;
- (2) Three-family, four-family and multi-family unit residences and boarding houses: ten (10) feet;
- (3) Schools, churches, hospitals and mortuaries: five (5) feet; and
- (4) Grocery stores: thirty-five (35) feet.

(b) The minimum setback from the front property line shall be:

- (1) Single-family and two-family residences: not less than thirty (30) feet from the curb, and at least fifteen (15) feet from the front property line, unless twenty-five percent (25%) of that portion of the block fronting upon the same street is improved with existing structures which have observed a greater amount of setback, in which case no building shall be placed any nearer the front line than the existing dwelling nearest the front line;
- (2) Three-family, four-family and multifamily unit residences and boarding houses: thirty (30) feet;
- (3) Schools, churches, hospitals and mortuaries: thirty (30) feet; and
- (4) Grocery stores: thirty (30) feet.

(c) The minimum setback from the side property lines shall be:

- (1) Single-family and two-family unit residences: five (5) feet;
- (2) Multifamily residences and boarding houses: five (5) feet;
- (3) Schools, churches, hospitals and mortuaries: thirty (30) feet; and
- (4) Grocery stores: ten (10) feet.

(d) Side property line setback requirements do not apply to individual interior units of multi-family structures. (Ord. 839 §635.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-90. Minimum floor area.**

The minimum floor area for the R-3 District residences shall be as follows:

(1) Single-family and two-family unit residences: eight hundred (800) square feet per family unit; and

(2) Three-family, four-family and multifamily unit residences and boarding houses: four hundred fifty (450) square feet per unit. (Ord. 839 §635.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-100. Maximum height of structures.**

The maximum height of structures in the R-3 District shall be, for all uses, four (4) stories: forty-five (45) feet. (Ord. 839 §635.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-110. Minimum off-street parking and loading requirements.**

The minimum off-street parking and loading requirements for the R-3 District shall be as follows:

(1) Single-family, two-family, three-family, four-family and multifamily unit residences and boarding houses: two (2) spaces per dwelling unit;

(2) Churches: one (1) space per each four (4) seats;

(3) Schools:

a. High schools, colleges or universities: ten (10) spaces per classroom;

b. Junior high or middle schools: one and one-half (1½) spaces per classroom; and

c. Elementary schools: one and one-half (1½) spaces per classroom;

(4) Grocery stores: two (2) spaces per five hundred (500) square feet of floor space;

(5) Loading requirements: All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §635.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-8-120. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §635.10, 1986)

**Sec. 16-8-130. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §635.11, 1986)

**Sec. 16-8-140. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §635.12, 1986)

**ARTICLE IX**

**M-H Mobile Home District**

**Sec. 16-9-10. Intent and purpose of district.**

The M-H Mobile Home District is intended specifically for areas where mobile homes and mobile home courts or parks are desired. (Ord. 839 §640, 1986)

**Sec. 16-9-20. Special requirements.**

An M-H District must be located so that at least one (1) of the following situations exists:

- (1) The M-H District is contiguous to an I-1, I-2, C-1, or C-2 District on one (1) side, and an A-L, O-E, R-1, R-2, R-3, or M-H District on the other side; and/or
- (2) The M-H District is completely surrounded by an A-L, O-E, R-1, R-2, R-3, or M-H District or any combination of these Districts. (Ord. 839 §640.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-9-30. Uses by right.**

The following shall be uses by right in the M-H District:

- (1) Single-family, two-family, three-family and four-family residences, provided that such residences meet all other requirements of the R-2 zone;
- (2) Schools, churches, pre-school nurseries, parks;
- (3) Day care centers;
- (4) Day care homes;
- (5) Large day care homes;
- (6) Mobile homes and their accompanying pads and additions, provided that:
  - a. Such mobile homes shall be placed on individual lots of not less than four thousand two hundred (4,200) square feet in size,
  - b. Such mobile homes are to be affixed to the lot by being permanently connected to City utilities after removal of all wheels and/or other undercarriage necessary for transport of such mobile homes,

c. All crawl space beneath any such mobile home on any lot in this district shall be enclosed by use of skirting material manufactured for that purpose, and

d. All other R-2 District requirements for single-family, two-family, three-family or four-family dwelling units shall be met;

(7) Home occupations, provided that:

a. Only one (1) person other than residents of the premises shall be engaged in such occupation,

b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation,

c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, other than one (1) sign, not exceeding two (2) square feet in area, nonilluminated, and mounted flat against the wall of the principal building,

d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard, and

e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises; and

(8) Mobile home parks, provided that:

a. No such park shall be less than one (1) acre in size,

b. There shall be no more than fifteen (15) mobile homes per acre in any such park,

c. Each mobile home space in a mobile home park shall be at least twenty-five (25) feet wide, and shall abut on a driveway or other clear area with unobstructed access to a public street. Such spaces shall be clearly defined, and mobile homes shall be parked in such spaces so that there will be a minimum of ten (10) feet between mobile homes at all points. No mobile home will be less than five (5) feet from the side boundary of the mobile home space. No mobile home shall be less than five (5) feet from the exterior boundary of the mobile home park (see supplemental district regulations for corner lots, Section 16-17-10), and

d. Any such mobile home park must comply with the provisions of any valid home park ordinance in addition to the provisions of this Chapter. In case of conflict with any other ordinance or code of the City, those provisions which establish the higher standard for the promotion and protection of the health, safety and welfare of the people shall prevail. (Ord. 839 §640.03, 1986; Ord. 890 §2, 1991; Ord. 1022 §1, 2000)

**Sec. 16-9-40. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §640.04, 1986)

**Sec. 16-9-50. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §640.05, 1986)

**Sec. 16-9-60. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §640.06, 1986)

**Sec. 16-9-70. Transportation units used for storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §3, 2001)

**ARTICLE X**

**PUD Planned Unit Development District**

**Sec. 16-10-10. Intent and purpose of district.**

(a) The provisions of this Article are intended for application in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units warrants modification of the standards contained elsewhere in this Article. To be eligible under this Article, the planned unit development must:

(1) Reflect compatibility with the comprehensive plan;

(2) Be composed of such uses and in such proportions as are appropriate to the integrated function of the development within the context of established community growth patterns;

(3) Be so designed in its space allocation, orientation, texture, materials, landscaping and other features, as to produce an environment of stable and desirable character, complementing the design and values of adjacent areas of the community.

(b) The PUD District is intended to be appended to a residential, commercial or industrial district, to provide for the most advantageous techniques of land development consistent with the intent and purpose of this Article, the subdivision regulations and the comprehensive plan. (Ord. 839 §645.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-20. Use regulations.**

(a) Uses and structures permitted under the provisions of the regulations of the parent district of which this district is made a part shall be permitted.

(b) Special exceptions:

(1) Conditional uses allowed as special exceptions in the parent district to which this district is made a part may be permitted; and

(2) Day care centers. (Ord. 839 §645.02; Ord. 890 §2, 1991)

**Sec. 16-10-30. Prohibited uses and structures.**

Any use or structure prohibited in the parent district to which this district is made a part is prohibited in this district. (Ord. 839 §645.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-40. Minimum area requirements.**

The minimum area of a tract of land to be zoned as an appended PUD District within a parent district shall be as follows:

<u>Parent Zoning District</u>	<u>Minimum Area (Acres)</u>
R Residential	2
C Commercial	2
I Industrial	5

(Ord. 839 §645.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-50. Procedures for review and approval.**

(a) When a property owner or developer intends to develop a tract of land containing at least the minimum area for that parent district and involving more than one (1) commercial or industrial establishment, or in the case of a residential area, more than one (1) dwelling unit, application may be made for zoning the property to a PUD District.

(b) The zoning change, if approved, shall be an amendment to the Zoning Map as an appendage to the existing parent district. The zoning change may also incorporate a request to rezone the existing parent district to another parent district with the PUD District.

(c) An applicant for a change in zoning to PUD District, must satisfy the Planning and Zoning Commission that he or she has the ability to carry out the proposed plan, and shall prepare and submit a schedule for construction.

(d) Such applicant also shall prepare and submit a preliminary development plan for review and approval by the Planning and Zoning Commission, which shall include:

- (1) A topographic map showing contours at intervals of two (2) feet;
- (2) A plot plan showing:
  - a. Building and sign structure locations on the tract,
  - b. Access for streets,
  - c. Parking arrangement and number of spaces,
  - d. Interior drives and service areas, and
  - e. Area set aside for public open space; and
- (3) Location map showing the development and zoning of the adjacent property within two hundred (200) feet, including the location and the type of buildings and structures thereon;
- (4) The full legal description of the boundaries of the properties to be included in the area to be zoned PUD District;
- (5) A map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the area to be zoned PUD District;
- (6) A map showing location of proposed sewer, water and other utility lines; and
- (7) A description of general character of proposed buildings and any signs to be placed on the site.

(e) The applicant may further be asked to furnish other information, such as typical building floor plans, building elevations to show the general architectural character of the buildings, some indications as to size and type of landscape plant materials, pavements and other major site improvements.

(f) The applicant may be asked to submit the tentative financial plan and description of the intended means of financing any proposed common areas or common improvements, and statements covering ownership and maintenance of common easements or other common areas, such as open space or recreational facilities.

(g) Upon approval of the preliminary development plan by the Planning and Zoning Commission, the applicant shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested. Alterations in the preliminary schedule of construction shall be submitted at this time. The final development plan and the Planning and Zoning Commission's recommendation shall be forwarded to the City Council for its review and final action.

(h) In the event that, within eighteen (18) months following approval by the City Council, the applicant does not proceed with construction in accordance with the plan so approved, the Planning and Zoning Commission shall initiate action to rezone the property to the original zoning district. A public hearing, as required by law, shall be advertised and held, at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the

Planning and Zoning Commission shall make findings of fact and shall make a recommendation to the City Council.

(i) All plans and documents shall become a part of the amendment and shall form the basis for issuance of a zoning permit, in conformity therewith.

(j) Changes in the development plan, which increase the number of dwelling units or establishments, the arrangement of buildings, the number of parking stalls, the size or number of other improvements or the alignment of driveways or roadways shall require a resubmission for approval of the application for rezoning. Any minor changes, adjustments or decrease in the number of dwelling units, common facilities and recreation facilities, may be approved by the Zoning Administrator without resubmission. (Ord. 839 §645.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-60. Minimum lot requirements.**

(a) The lot requirements of the parent district of which this district is made a part, shall be the minimum lot requirements, unless otherwise prescribed and/or approved by the Planning and Zoning Commission.

(b) In the event that the tract of land to be developed as a PUD District lies in more than one (1) parent district, the provisions of the more restrictive parent district shall be applicable.

(c) In an appended residential district, the number of dwelling units that may be permissible on the proposed tract to be developed as a PUD District shall be determined by using the lot area per dwelling unit requirements of the parent zoning district, unless otherwise approved by the Planning and Zoning Commission; provided, however, that the total lot area of the proposed tract shall be reduced by the areas covered or occupied by buildings, streets, roadways, drives, parking areas and unusable land areas, such as streams, drainage ways, creeks or land with grade slopes exceeding a twenty-five-percent grade. (Ord. 839 §645.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-70. Minimum property line setback.**

The property line setback requirements of the parent district of which this district is made a part shall be the minimum yard requirements unless otherwise prescribed and/or approved by the Planning and Zoning Commission. (Ord. 839 §645.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-80. Minimum lot coverage.**

The lot coverage requirements of the parent district of which this district is made a part shall be the maximum lot coverage requirements, unless otherwise prescribed and/or approved by the Planning and Zoning Commission. (Ord. 839 §645.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-90. Maximum floor area requirements.**

The floor area requirements of the parent district of which this district is made a part shall be the minimum requirements, unless otherwise prescribed and/or approved by the Planning and Zoning Commission. (Ord. 839 §645.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-100. Maximum height of structures.**

The height requirements of the parent district of which this district is made a part shall be the maximum height requirements, unless otherwise prescribed and/or approved by the Planning and Zoning Commission. (Ord. 839 §645.10, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-110. Minimum parking and loading requirements.**

The parking and loading requirements of the parent district of which this district is made a part shall be the minimum requirements, unless otherwise prescribed and/or approved by the Planning and Zoning Commission. (Ord. 839 §640.11, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-120. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §645.12, 1986)

**Sec. 16-10-130. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §645.13; 1986)

**Sec. 16-10-140. Limitations on signs.**

The sign regulations of the parent district of which this district is made a part shall be the minimum requirements for sign regulations, unless otherwise prescribed and/or approved by the Planning and Zoning Commission. (Ord. 839 §645.14, 1986; Ord. 1022 §1, 2000)

**Sec. 16-10-150. Transportation units used as storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §4, 2001)

**ARTICLE XI**

**C-1 Central Business District**

**Sec. 16-11-10. Intent and purpose of district.**

The C-1 Central Business District is intended to be a commercial district allowing those uses which are compatible with pedestrian traffic. (Ord. 839 §650.01, 1986; Ord. 1022 §1, 2000)

**Sec 16-11-20. District regulations.**

In the C-1 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged or designed for other than one (1) of the uses listed in Section 16-11-30 below. (Ord. 839 §650.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-30. Uses by right.**

The following shall be uses by right in the C-1 District:

- (1) All retail and service commercial uses except those prohibited in this Article;
- (2) Government buildings and utilities;
- (3) Parking lots and garages;
- (4) Apartments on floors other than the ground floor;
- (5) Accessory uses customarily incidental to the uses by right in this zone; and
- (6) Parks. (Ord. 839 §650.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-40. Special exceptions.**

Special exceptions in the C-1 District may be permitted as follows:

- (1) Light manufacturing activities subsidiary to retail, wholesale, and service commercial uses, as special exceptions upon recommendation by the Planning and Zoning Commission;
- (2) Day care centers; and
- (3) Churches. (Ord. 839 §650.03.07, 1986; Ord. 882 §1, 1990; Ord. 890 §2, 1991; Ord. 896 §1, 1991; Ord. 927 §1, 1993; Ord. 1022 §1, 2000)

**Sec. 16-11-50. Prohibited uses and structures.**

Any vehicle-related commercial use which includes lumberyards, drive-in restaurants, hotels, motels, tourist accommodations, supermarkets, grocery stores, motor vehicle dealers (new and used), auto accessory stores, vehicle repair services and service stations are prohibited in this district. (Ord. 839 §650.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-60. Minimum lot requirements.**

There are no restrictions in the C-1 District. (Ord. 839 §650.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-70. Minimum setback requirements.**

There are no restrictions in the C-1 District. (Ord. 839 §650.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-80. Minimum floor area to lot area ratio.**

There are no restrictions in the C-1 District. (Ord. 839 §650.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-90. Maximum height of structures.**

The maximum height of structures for the residences in the C-1 District shall be for four (4) stories: forty-five (45) feet. (Ord. 839 §650.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-100. Minimum off-street parking and loading requirements.**

All uses in the C-1 District shall provide adequate off-street loading space scaled to delivery vehicles expected to be used. (Ord. 839 §650.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-11-110. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §650.10, 1986)

**Sec. 16-11-120. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §650.11, 1986)

**Sec. 16-11-130. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §650.12, 1986)

**Sec. 16-11-140. Transportation units used for storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §5, 2001)

**ARTICLE XII**

**C-2 Commercial District**

**Sec. 16-12-10. Intent and purpose of district.**

The C-2 Commercial District is intended to be a vehicle-related commercial district permitting those uses which are compatible with automobile traffic. (Ord. 839 §655.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-20. District regulations.**

In the C-2 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-12-30 below. (Ord. 839 §655.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-30. Uses by right.**

The following shall be uses by right in the C-2 District:

- (1) All retail and service commercial uses;
- (2) Any vehicle-related commercial use such as, but not limited to, lumberyards, drive-in restaurants, hotels, motels, tourist accommodations, supermarkets, grocery stores, motor vehicle dealers (new and used), auto accessory stores, vehicle repair services and service stations;

- (3) Government buildings and utilities;
- (4) Parking lots and garages;
- (5) Apartments on floors other than the ground floor;
- (6) Accessory uses customarily incidental to the uses by right in this zone;
- (7) Parks; and
- (8) Mortuaries. (Ord. 839 §655.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-40. Special exceptions.**

Special exceptions may be permitted in the C-2 District for the following:

- (1) Light manufacturing activities subsidiary to retail, wholesale and service commercial uses, as special exceptions upon recommendation by the Planning and Zoning Commission;
- (2) Day care centers; and
- (3) Churches. (Ord. 839 §655.03.09, 1986; Ord. 882 §1, 1990; Ord. 890 §2, 1991; Ord. 896 §1, 1991; Ord. 927 §1, 1993; Ord. 1022 §1, 2000)

**Sec. 16-12-50. Prohibited uses and structures.**

Any use or structure permitted in any other district and not specifically permitted in this district is prohibited in this district. (Ord. 839 §655.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-60. Minimum lot requirements.**

There are no restrictions in the C-2 District. (Ord. 839 §655.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-70. Minimum setback requirements.**

In the C-2 District, the minimum setback from the following property lines shall be:

- (1) From the front property line: fifteen (15) feet.
- (2) From the side property line: ten (10) feet.
- (3) From the rear property line: fifteen (15) feet. (Ord. 839 §655.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-80. Minimum floor area to lot area ratio.**

There are no restrictions in the C-2 District. (Ord. 839 §655.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-90. Height of structures.**

The height of structures in the C-2 District shall be for four (4) stories: forty-five (45) feet. (Ord. 839 §655.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-100. Minimum off-street parking and loading requirements.**

(a) All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used.

(b) All uses shall provide one (1) off-street loading space scaled to delivery vehicles expected to be used per seven hundred (700) square feet of floor space.

(c) All uses shall provide two (2) off-street parking spaces per five hundred (500) square feet of ground floor space. (Ord. 839 §655.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-12-110. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §655.10, 1986)

**Sec. 16-12-120. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §655.11, 1986)

**Sec. 16-12-130. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §655.12, 1986)

**Sec. 16-12-140. Transportation units used as storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §6, 2001)

**ARTICLE XIII**

**C-3 Highway Service District**

**Sec. 16-13-10. Intent and purpose of district.**

The C-3 Highway Service District is intended to provide limited highway service businesses. Floor area is restricted, and off-street parking is required in order to minimize potential adverse effects to adjacent property. (Ord. 839 §660.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-20. District regulations.**

In the C-3 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-13-30 below. (Ord. 839 §660.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-30. Uses by right.**

The following shall be uses by right in the C-3 District:

- (1) Drive-in restaurants;
- (2) Electric and telephone substations and other utilities;
- (3) Implement dealers;
- (4) Motels, including accessory service uses, such as newsstands, messenger and telegraph stations, swimming pools (for motel guests only), flower and gift shops;
- (5) Motor vehicle sales, service and rentals;
- (6) Parks, playgrounds and buildings owned and operated by a public agency;
- (7) Car washes;
- (8) Parking lots (customer and private);
- (9) Restaurants;
- (10) Convenience stores;
- (11) Service stations or filling stations (light service work only);
- (12) Liquor stores;
- (13) Mobile home sales and service;
- (14) Drive-in banks; and
- (15) Accessory uses customarily incidental to the uses by right in this zone. (Ord. 839 §660.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-40. Special exceptions.**

Special exceptions in the C-3 District may be permitted for the following:

- (1) Day care centers;
- (2) Churches; and
- (3) Commercial recreational facilities, such as, but not limited to, batting cages, go-cart tracks, water slides, miniature golf courses and the like. (Ord. 839 §660.03.16, 1986; Ord. 890 §2, 1991; Ord. 896 §1, 1991; Ord. 915 §1, 1993; Ord. 1022 §1, 2000)

**Sec. 16-13-50. Prohibited uses and structures.**

Any use permitted in any other district and not specifically permitted in this district is prohibited in this district. Prohibited uses include general retail merchandising and commercial service uses such as are allowable in the C-1 and C-2 Districts. (Ord. 839 §660.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-60. Minimum lot requirements.**

Tracts in the C-3 Highway Service District shall have a minimum area of fifteen thousand (15,000) square feet and an average lot width of not less than one hundred fifty (150) feet. (Ord. 839 §660.05, 1986)

**Sec. 16-13-70. Minimum setback requirements.**

In the C-2 District, the minimum setback from the following property lines shall be:

- (1) From the back property line: thirty (30) feet;
- (2) From the front property line: thirty (30) feet; and
- (3) From the side property lines: ten (10) feet. (Ord. 839 §660.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-80. Maximum lot coverage.**

Total building coverage of the lot shall not exceed forty percent (40%). (Ord. 839 §660.07, 1986)

**Sec. 16-13-90. Maximum height of structures.**

The maximum structure height in the C-3 District is: four (4) stories: forty-five (45) feet. (Ord. 839 §660.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-100. Minimum off-street parking and loading requirements.**

(a) All uses shall provide adequate off-street loading space scaled to delivery vehicles expected to be used.

(b) All uses shall provide one (1) off-street loading space scaled to delivery vehicles expected to be used per seven hundred (700) square feet of floor space.

(c) All uses shall provide two (2) off-street parking spaces per five hundred (500) square feet of ground floor space. (Ord. 839 §660.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-13-110. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §660.10, 1986)

**Sec. 16-13-120. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §660.11, 1986)

**Sec. 16-13-130. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §660.12, 1986)

**Sec. 16-13-140. Transportation units used as storage facilities or other structures prohibited.**

For aesthetic purposes, transportation units used as storage facilities or other structures are prohibited in this district. (Ord. 1035 §6, 2001)

**ARTICLE XIV**

**I-1 Industrial District**

**Sec. 16-14-10. Intent and purpose of district.**

(a) The I-1 Industrial District is intended for the purpose of allowing certain industrial uses which do not:

- (1) Require intensive land coverage;
- (2) Generate large volumes of vehicular traffic; and
- (3) Create obnoxious sounds, glare, dust or odor. Height and land coverage are controlled to ensure compatibility with adjoining uses.

(b) The volume of sound generated by this use shall not inherently or recurrently exceed eighty (80) decibels at any point of any boundary line of the zone lot on which the use is located.

(c) The vibration generated by this use shall not inherently or recurrently be perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located.

(d) The emission of heat, glare, radiation and fumes by this use shall not emit any obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any point of any boundary line of the zone lot on which the use is located. (Ord. 839 §665.01, 1986)

**Sec. 16-14-20. District regulations.**

In the I-1 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-14-30 below. (Ord. 839 §665.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-30. Uses by right.**

The following shall be uses by right in the I-1 District:

- (1) Parks;
- (2) Any light fabricating or manufacturing industry;

- (3) Warehouses;
- (4) Governmental and quasi-governmental uses, including residential care facilities operated by governmental and quasi-governmental authorities and utilities;
- (5) Parking lots and garages;
- (6) All service and commercial uses; and
- (7) Accessory uses customarily incidental to the uses by right in this zone. (Ord. 839 §665.03, 1986; Ord. 973 §1, 1996; Ord. 1022 §1, 2000)

**Sec. 16-14-40. Special exceptions.**

Special exceptions in the I-1 District may be permitted for the following:

- (1) Day care centers; and
- (2) Churches. (Ord. §665.03.08, 1986; Ord. 890 §2, 1991; Ord. 1022 §1, 2000; Ord. 1055, 2002)

**Sec. 16-14-50. Prohibited uses and structures.**

Any use permitted in any other district and not specifically permitted in this district is prohibited in this district. (Ord. 839 §665.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-60. Minimum lot requirements.**

There are no restrictions in the I-1 District. (Ord. 839 §665.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-70. Minimum setback requirements.**

In the I-1 District, all buildings shall be set back from the front property line twenty (20) feet and from the side property lines five (5) feet. (Ord. 839 §665.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-80. Maximum floor area to lot area requirements.**

In the I-1 District, the maximum ratio of floor area to lot area is one (1) square foot of floor area per three (3) square feet of lot area. (Ord. 839 §665.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-90. Maximum height of structures.**

The maximum structure height in the I-1 District shall be established as required for fire protection. (Ord. 839 §665.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-100. Minimum off-street parking and loading requirements.**

(a) All uses and structures in the I-1 District shall provide adequate off-street loading space scaled to vehicles expected to be used.

(b) All uses shall provide one (1) space of off-street parking for each five hundred (500) square feet of building space. (Ord. 839 §665.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-14-110. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §665.10, 1986)

**Sec. 16-14-120. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §665.11, 1986)

**Sec. 16-14-130. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §665.12, 1986)

**ARTICLE XV**

**I-2 Industrial District**

**Sec. 16-15-10. Intent and purpose of district.**

(a) The I-2 Industrial District is intended for the purpose of allowing basic or primary industries, which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district.

(b) The volume of sound generated by this use shall not inherently or recurrently exceed one hundred (100) decibels at any point of any boundary line of the zone lot on which the use is located.

(c) The vibration generated by this use shall not inherently or recurrently be perceptible, without instruments, at any point of any boundary line of the lot on which the use is located.

(d) The emission of heat, glare, radiation and fumes by this use shall not emit any obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any point of any boundary line of the lot on which the use is located. (Ord. 839 §670.01, 1986)

**Sec. 16-15-20. District regulations.**

In the I-2 District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-15-30 below. (Ord. 839 §670.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-30. Uses by right.**

The following shall be uses by right in the I-2 District:

- (1) Parks;
- (2) Any fabricating or manufacturing industry;

- (3) Warehouses;
- (4) Government buildings and utilities;
- (5) Parking lots and garages;
- (6) Grain warehouses; and
- (7) Accessory uses customarily incidental to the uses by right in this district. (Ord. 839 §670.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-40. Special exceptions.**

Special exceptions in the I-2 District may be allowed for the following:

- (1) Day care centers;
- (2) Limited low density service and commercial uses;
- (3) Commercial outlet for products manufactured on the property, provided that the commercial is clearly subordinate to the principal use and does not take up more than twenty-five percent (25%) of the gross floor area;
- (4) Automobile wrecking yards, junkyards and scrap processing yards; when said yard is completely enclosed with six-foot solid fence, wall or hedge, and no junk or scrap is stored outside the fence or wall; subject, however, to the restrictions in Article XX of this Chapter;
- (5) Petroleum and natural gas refining and processing;
- (6) Stockyards, slaughterhouses and aquaculture;
- (7) Ready-mix concrete and asphalt mix plants;
- (8) Storage of bulk oil, gas and explosives; and
- (9) Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration. (Ord. 839 §670.03.08, 1986; Ord. 890 §2, 1991; Ord. 947 §1, 1995; Ord. 1022 §1, 2000)

**Sec. 16-15-50. Prohibited uses and structures.**

All nonindustrial uses and structures, except those permitted as special exceptions, are prohibited in the I-2 District. (Ord. 839 §670.04, 1986)

**Sec. 16-15-60. Minimum lot requirements.**

There are no restrictions in the I-2 District. (Ord. 839 §670.05, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-70. Minimum setback requirements.**

In the I-2 District, all buildings shall be set back from the front property line twenty (20) feet, and from the side property lines five (5) feet. (Ord. 839 §670.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-80. Maximum floor area to lot area requirements.**

In the I-2 District, the maximum ratio of floor area to lot area is one (1) square foot of floor area per four (4) square feet of lot area. (Ord. 839 §670.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-90. Maximum height of structures.**

The maximum structure height in the I-2 District shall be as required for fire protection. (Ord. 839 §670.08, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-100. Minimum off-street parking and loading requirements.**

(a) All uses and structures in the I-2 District shall provide adequate off-street loading space scaled to vehicles expected to be used.

(b) All uses shall provide one (1) space of off-street parking for each five hundred (500) square feet of building space. (Ord. 839 §670.09, 1986; Ord. 1022 §1, 2000)

**Sec. 16-15-110. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §670.10, 1986)

**Sec. 16-15-120. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §670.11, 1986)

**Sec. 16-15-130. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §670.12, 1986)

**ARTICLE XVI**

**I-P Industrial Park District**

**Sec. 16-16-10. Intent and purpose of district.**

The intent of the I-P Industrial Park District is to allow certain industrial land uses in a park-like atmosphere, and to control the type of use, setback, parking, loading and unloading. It is also intended that this district be compatible with adjoining residential and commercial land uses. (Ord. 839 §675.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-16-20. District regulations.**

In the I-P District, no building or land shall be used, and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one (1) of the uses listed in Section 16-16-30 below. (Ord. 839 §675.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-16-30. Uses by right.**

(a) Uses and structures permitted under the provisions of the I-1 and I-2 Industrial Districts shall be permitted in the I-P District.

(b) Applicable within the corporate limits of the City and to City-owned property outside the City's corporate limits, correctional facilities shall be a use by right, provided that they comply with the following additional requirements:

(1) In order to accommodate potential expansion of the facilities, the site size shall be a minimum of fifteen (15) acres in size.

(2) The facility shall be established at least five hundred (500) feet (measured from property line to property line) from the nearest property within the corporate limits of the City which is residentially zoned or used.

(3) The facility shall not be established within five hundred (500) feet (measured from property line to property line) from any church or place of worship, day care facility, park, educational institution, library, museum, community center, residential district or children's amusement park located within the corporate limits of the City.

(4) Site development shall be in conformance with the landscaping requirements of the zoning district.

(5) The construction and operation of the correctional facility shall comply with all applicable federal, state and local regulatory requirements.

(6) The City Council may deny the locating of a correctional facility in an I-P District when the use would be detrimental to nearby properties or, in the alternative, the City Council may add conditions or safeguards to the approval of a correctional facility location in order to protect the health and welfare of citizens. (Ord. 839 §675.03, 1986; Ord. 1022 §1, 2000; Ord. 1069 §1, 2004)

**Sec. 16-16-40. Special exceptions.**

(a) Conditional uses allowed as special exceptions in the I-1 and I-2 Industrial Districts may be permitted when environmentally compatible with the other uses proposed for the industrial park and adjacent areas of the community.

(b) Day care centers shall be allowed as a special exception. (Ord. 839 §675.03.01, 1986; Ord. 890 §2, 1991)

**Sec. 16-16-50. Prohibited uses and structures.**

Any use or structure prohibited in the I-1 and I-2 Districts is prohibited in this district. (Ord. 839 §675.04, 1986; Ord. 1022 §1, 2000)

**Sec. 16-16-60. Minimum area requirements.**

The minimum area of a tract of land to be zoned as an industrial park shall be ten (10) acres. (Ord. 839 §675.05, 1986)

**Sec. 16-16-70. General requirements.**

(a) An applicant for an I-P Industrial Park District shall prepare and submit a rezoning application and a preliminary development plan for review and approval by the Planning and Zoning Commission, which shall include:

- (1) A topographic map showing contours at intervals of two (2) feet;
- (2) A plot plan showing:
  - a. Building locations on the tract,
  - b. Access from streets,
  - c. Parking arrangement and number of spaces,
  - d. Interior drives and service areas, and
  - e. Landscaped buffer strips;
- (3) Location map showing the development and zoning of the adjacent property within two hundred (200) feet, including the location and the type of buildings and structures thereon;
- (4) The full legal description of the boundaries of the properties to be included in the area to be zoned I-P Industrial Park District;
- (5) A map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the area to be zoned I-P Industrial Park District;
- (6) A map showing location of proposed sewer, water and other utility lines; and
- (7) A description of general character of the proposed buildings.

(b) The applicant may additionally be asked to provide supplemental information concerning intended means of financing common improvements, proposed protective covenants, methods and means to assure adequate maintenance of landscaped areas, and similar considerations as may be required for municipal review by the Planning and Zoning Commission and the City Council.

(c) Upon approval of the preliminary development plan by the Planning and Zoning Commission, the applicant shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested. The final development plan and the Planning and Zoning Commission recommendation shall be forwarded to the City Council for review and final action. (Ord. 839 §675.06, 1986; Ord. 1022 §1, 2000)

**Sec. 16-16-80. Minimum setback requirements.**

Setback regulations in an I-P District shall be as follows:

(1) From the front property line: A front setback of thirty (30) feet shall be required for uses permitted in this district, except as may be required and/or approved by the Planning and Zoning Commission.

(2) From the side and rear property lines: No side or rear setback shall be required for uses in this district, except where such use abuts a residential district zone, in which case there shall be required fifteen (15) feet of side and/or rear setback on the side of the lot and/or on the rear of the lot which abuts the residential district. These fifteen (15) feet shall contain a fence or wall and shrub border to screen residential zoned property from the proposed use. The wall and shrub border shall be adequately maintained by the property owner. (Ord. 839 §675.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-16-90. Maximum lot coverage.**

(a) A building, structure or use allowed in this district may occupy all that portion of a lot, except for the area required for off-street parking, off-street loading and unloading and their access roads, and as otherwise required for yard or buffer areas.

(b) In the case where the required off-street loading and unloading will be provided within the building or structure, the building or structure may cover the entire lot, except for land required for off-street parking, and as otherwise required for yard and buffer areas. (Ord. 839 §675.08, 1986)

**Sec. 16-16-100. Maximum height of buildings.**

In an I-P District, height regulations shall be as follows:

(1) When a building or structure is within one hundred fifty (150) feet of a residential district zone, the building shall not exceed forty-five (45) feet in height, or as required for fire protection.

(2) When a building or structure is more than one hundred fifty (150) feet from a residential district zone, the building shall not exceed seventy-five (75) feet in height, or as required for fire protection. (Ord. 839 §675.09, 1986)

**Sec. 16-16-110. Minimum parking and loading requirements.**

(a) All uses and structures in the I-P District shall provide adequate off-street parking and loading space, to assure that daily activity will be accommodated entirely off-street without use of public streets for turning or maneuvering. Parking and loading space shall be scaled to the types and volumes of vehicles to be used.

(b) All uses shall provide one (1) space of off-street parking for each five hundred (500) square feet of building space. (Ord. 839 §675.10, 1986; Ord. 1022 §1, 2000)

**Sec. 16-16-120. Supplementary regulations.**

See Article XVII of this Chapter. (Ord. 839 §675.11, 1986)

**Sec. 16-16-130. Limitations on fences.**

See Article XVII of this Chapter. (Ord. 839 §675.12, 1986)

**Sec. 16-16-140. Limitations on signs.**

See Article XVIII of this Chapter. (Ord. 839 §675.13, 1986)

**ARTICLE XVII**

**Supplementary District Regulations**

**Sec. 16-17-10. Visibility at intersections.**

In all districts except C-1 and C-2 Districts, on a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the property line of such corner lots and a line joining points along said property line fifty (50) feet from the point of the corner. (Ord. 839 §700.01, 1986)

**Sec. 16-17-20. Erection of more than one principal structure on a lot.**

In any district, more than one (1) structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Chapter shall be met for each structure as though it were on an individual lot. (Ord. 839 §700.02, 1986)

**Sec. 16-17-30. Exceptions to height regulations.**

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Where such structures do not conflict with airport approach zones, they may be erected to a height not to exceed one hundred fifty (150) feet. (Ord. 839 §700.03, 1986)

**Sec. 16-17-40. Structures to have access.**

Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking. (Ord. 839 §700.04, 1986)

**Sec. 16-17-50. Parking, storage or use of major recreational equipment.**

For purposes of these regulations, *major recreational equipment* is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street; provided, however, that such equipment may be parked anywhere on residential premises for not to exceed twenty-four (24) hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use. (Ord. 839 §700.05, 1986; Ord. 1040, 2002)

**Sec. 16-17-60. Dust-free surface for off-street parking lots.**

All off-street parking lots hereinafter established shall be provided with a dust-free surface of a type and consistency acceptable to the City, except that this requirement shall not apply to residential development. (Ord. 839 §700.06, 1986)

**Sec. 16-17-70. Accessory buildings.**

(a) Construction of accessory buildings shall be prohibited before commencement of construction of the main building. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.

(b) Required setbacks. Accessory buildings may be built in a rear yard, but such accessory building shall not be nearer than the main building to any side yard, or ten (10) feet from any rear lot line. (Ord. 839 §700.07, 1986; Ord. 1022 §1, 2000)

**Sec. 16-17-80. Setback line.**

The setback line shall be determined by measuring the horizontal distance from the property line to the nearest architectural projection of the building (porches and stoops included). (Ord. 839 §700.08, 1986)

**Sec. 16-17-90. Fire escapes, outside stairways and chimney and flue projections.**

Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Building Official for a distance of not more than three and one-half (3½) feet and, where the same are so placed as not to obstruct light and ventilation. (Ord. 839 §700.09, 1986)

**Sec. 16-17-100. Side yard regulations for two-family or multifamily dwelling.**

For the purpose of the side yard regulations, a two-family dwelling or a multifamily dwelling shall be considered as one (1) building occupying one (1) lot. (Ord. 839 §700.10, 1986)

**Sec. 16-17-110. Temporary buildings and signs during construction.**

Temporary buildings and temporary construction signs that are used in conjunction with construction work may be permitted in any district during the period that the building is being constructed, but such temporary building and/or sign shall be removed upon completion of the construction work. (Ord. 839 §700.11, 1986)

**Sec. 16-17-120. Conformance to yard and space requirements with multiple principal uses.**

Where a lot or tract is used for a nonresidential purpose, more than one (1) principal use may be located upon the lot or tract, but only when the building or buildings conform to all yard and open space requirements for the district in which the lot or tract is located. (Ord. 839 §700.12, 1986)

**Sec. 16-17-130. Dwelling units above commercial or industrial structures.**

No side yards are required where dwelling units are erected above commercial and industrial structures. (Ord. 839 §700.13, 1986)

**Sec. 16-17-140. Number of employees.**

Whenever the number of employees is restricted in connection with any use in the neighborhood shopping or commercial districts, such maximum number applies only to employees principally engaged in processing, selling or treating materials or products on the premises and not to employees engaged in delivery or similar activities. (Ord. 839 §700.14, 1986)

**Sec. 16-17-150. Radio and television towers.**

Radio and television towers shall be permitted in any commercial or industrial district, provided that the height of the radio or television tower does not conflict with any airport approach or landing zone, or with any other provision of this Chapter. (Ord. 839 §700.15, 1986; Ord. 1022 §1, 2000)

**Sec. 16-17-160. Fences.**

(a) No fence, wall, hedge, or shrubbery intended as a fence or partition between properties shall exceed four (4) feet in height from the front building line toward an avenue, except that on corner lots the four-foot limitation shall extend to the back building line. For the purposes of measuring the height of front yard fences, the measurement shall be the vertical height from the top of the curb on the avenue abutting the property. All other fences may not exceed six (6) feet in height.

(b) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

(c) No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or any fence which shall adversely affect the public health, safety and welfare.

(d) No fence, except fences erected upon public or parochial school grounds, in public parks, and in public playgrounds, shall be constructed of a height greater than six (6) feet; provided, however,

that the Board of Adjustment and Appeals may, by special permit, authorize the construction of a fence higher than six (6) feet, if the Board finds that the public welfare is preserved.

(e) All fences shall conform to the construction standards of the building code and other applicable provisions of this Code. (Ord. 839 §700.16, 1986; Ord. 845 §1, 1986; Ord. 1022 §1, 2000)

**Sec. 16-17-170. Lots of record.**

A lot or group of lots which were platted and recorded in the office of the County Clerk, and recorded prior to the effective date of the ordinance codified herein, may be used for any purpose permitted in the district in which it is located; provided, however, that no residential building permit shall be issued for construction of a residential structure on a lot or group of lots that do not conform with the minimum yard and height requirements, unless specifically authorized by the Board of Adjustment and Appeals. (Ord. 839 §700.17, 1986; Ord. 1022 §1, 2000)

**Sec. 16-17-180. Canopy and marquee.**

A canopy or marquee may be permitted to overhang a public way in a C-1 or C-2 District, provided that:

- (1) The canopy or marquee is constructed and maintained in accordance with the City Building Code and this Code;
- (2) No portion of the canopy or marquee shall be less than eight (8) feet above the level of the sidewalk or other public way; and
- (3) The canopy or marquee shall not extend beyond a point two (2) feet inside the curblines of a public street. (Ord. 839 §700.18, 1986; Ord. 1022 §1, 2000)

**Sec. 16-17-190. Wind energy conversion systems (WECS).**

Wind energy conversion systems (WECS) may be permitted subject to the following requirements:

- (1) The minimum distance from any lot line to any tower, pole or other support structure of the wind energy conversion system shall be established by the following minimum standards:

Rotor Diameter <u>(Feet)</u>	Setback Distance <u>(Feet)</u>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

Intermediate rotor size distances shall be interpolated from the above values.

- (2) The WECS shall not be located in any required yard.
- (3) The WECS shall not cause interference to microwave communications or radio and television reception in the area. Noise levels measured at the lot line shall not exceed sixty (60) dBA in a residential zone.
- (4) To limit climbing access to a WECS tower or other support structure, a six-foot-high fence with locking portal shall be placed around the WECS support, or if a tower is utilized, the tower climbing apparatus shall be limited to no lower than twelve (12) feet from the ground, or the WECS support may be mounted on a rooftop.
- (5) All blades of a WECS shall be constructed of nonmetallic substances. If the applicant can prove, in writing, that no electromagnetic interference will result, a metal content of up to twenty-five percent (25%) will be acceptable.
- (6) The WECS shall be located in compliance with the guidelines of the federal aviation regulations with regard to airport approach and clearance around VOR and DVOR stations.
- (7) Height of the WECS shall not exceed the maximum height restriction in the zone where it is located by more than twenty (20) feet. The height of the WECS shall be measured at the center of the blade diameter.
- (8) Data pertaining to the WECS' safety and structural integrity shall be certified by a licensed engineer and filed with the building permit application. The tower or support and top adaptor shall meet the restrictions specified in the building code.
- (9) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's current service regulations applicable to WECS.
- (10) A plot plan shall be submitted with the application for the building permit showing the proposed location and height of the WECS, fencing and all existing buildings within two hundred (200) feet of the exterior lot lines.

(11) The owner/operator shall provide covenants, easements or similar documentation to assure sufficient wind to operate the WECS unless adequate accessibility to the wind is provided by the site.

(12) The owner/operator shall certify that the WECS does not violate any covenants of record.

(13) The applicant shall provide a certificate of liability insurance. Annually, the owner/operator shall present evidence to the Zoning Administrator that the liability insurance is still in effect. (Ord. 839 §700.19, 1986; Ord. 845 §1, 1986)

**Sec. 16-17-200. Medical marijuana dispensaries.**

Medical marijuana dispensaries are prohibited within the City. A medical marijuana dispensary may not be operated as a primary land use, as an incidental activity to another lawful land use, or as a home occupation. (Ord. 1153 §4, 2010)

**ARTICLE XVIII**

**Sign Regulations**

**Sec. 16-18-10. General requirements.**

(a) It shall be unlawful for any person to erect, move, alter, change, repair, place, suspend or cause or permit to be erected, moved, altered, changed, repaired, placed, suspended or attached any sign in violation of this Article.

(b) It shall be unlawful for any person to fasten, paste, place, post, paint or attach in any way any sign, handbill, poster, advertisement or notice of any kind or sort, whether political or otherwise, or to cause the same to be done, in or upon any curbstone, lamp post, telephone, telegraph or electric light pole, tree or bridge.

(c) It shall be unlawful to paste, place, paint or attach any sign on any building, street or property of the City; provided, however, that any property owner or the occupant of any property abutting on any public street in the City or the planning area may paint or stamp the address of such property upon the curbing directly in front of the building or to have the same painted thereon. (Ord. 839 §800.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-18-20. District regulations.**

Signs shall be permitted in the various districts as follows:

(1) Sign regulations for A-L, E-A, O-E, R-1, R-2, R-3 and M-H Districts:

a. Unilluminated nameplates are subject to the following restrictions:

1. The nameplate shall not exceed one (1) square foot in area;
2. The nameplate shall show only the name and/or address of the occupant;

3. There shall be no more than one (1) nameplate for each dwelling unit; and
4. The nameplate shall be affixed to the principal building, flat against the wall.

b. Unilluminated "For Sale" and "For Rent" single-faced or double-faced business signs are subject to the following regulations:

1. Only one (1) sign shall be permitted per lot;
2. No sign shall exceed five (5) square feet in area;
3. Signs shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection;
4. When said sign is affixed to a building, it shall not project higher than ten (10) feet above the ground level; and
5. Ground signs shall not project higher than four (4) feet above ground grade.

c. Bulletin boards and signs for churches and other public institutions are subject to the following regulations:

1. One (1) sign or bulletin board shall be permitted on each street side if located on the same site as the principal building;
2. If the sign or bulletin board is illuminated, the lights shall be directed away from adjoining residential uses;
3. No sign or bulletin board shall exceed twenty-four (24) square feet in area;
4. No sign shall be located closer than eight (8) feet from any side or rear property line;
5. A sign or bulletin board located in the front yard shall be no closer to the street line than one-half (½) the required front yard;
6. A sign or bulletin board affixed to a building shall not project higher than ten (10) feet above the ground level;
7. Ground signs shall be permanently anchored to the ground and shall not exceed a height of six (6) feet above normal grade;
8. Buildings constructed on the property line prior to the effective date of the ordinance codified herein shall be allowed one (1) identification sign, providing said sign is a flat wall sign and permanently attached to the building; and
9. On corner lots, no sign shall be constructed or located that will obstruct the view of traffic approaching the street intersection.

(2) Sign regulations for the C-1 District. Where buildings or structures are established or are hereafter established on the property line, in the C-1 District, advertising and business signs shall conform with the following requirements, provided that they are constructed and maintained in accordance with the building code:

a. The advertising or business sign shall be allowed to be affixed flat against the face of the building, be affixed to the front edge of a marquee parallel to a road, street or highway right-of-way or be affixed so as to extend over a road, street or highway right-of-way. An advertising or business sign that extends over a road, street or highway right-of-way must meet all of the following requirements.

1. Before erecting the sign, the owner of the sign obtains written permission and approval from the City Administrator or his or her designee.

2. The sign does not restrict pedestrian traffic and is not a safety hazard to pedestrians of the motoring public.

3. No portion of the sign shall be less than eight (8) feet above the level of the sidewalk, road, street or highway right-of-way.

4. The sign shall not extend beyond a point two (2) feet inside the curb line of the road, street or highway right-of-way.

5. The sign shall not extend any farther away than four (4) feet from the building, pole or structure.

b. Where a sign is illuminated by light directed upon it, the direct rays of light shall not beam upon any part of any existing residential district;

c. Lighted signs in direct vision of traffic shall not be in red, green or amber illumination;

d. Flashing signs shall be allowed only upon approval of the Building Official, provided that it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles;

e. The gross surface area, in square feet, on one (1) side of an advertising or business sign shall not exceed three (3) times the lineal feet of separate frontage of the lot occupied by the building. Each side of the lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a building shall not exceed three (3) times the lineal feet in the separate frontage. The total surface area shall not exceed four hundred (400) square feet for each face of the sign. Individual letters, with no background, shall be measured by the minimum rectangular area necessary to encompass such letter or by a combination of rectangles as are necessary to encompass letters of irregular dimensions; and

f. Any sign located within three (3) feet of a driveway or parking area, or within fifty (50) feet of the intersection of two (2) or more streets, shall have the lowest elevation at least ten (10) feet above the curb level.

(3) Sign regulations for the C-2 and C-3 Districts. Business signs (single-faced or double-faced) shall be allowed in the C-2 or C-3 Districts subject to sign regulations set forth in the building code.

a. Flashing signs are not permitted in C-2 Districts within five hundred (500) feet of a residential district zone.

b. Nonflashing signs shall be permitted, provided that said sign is illuminated only during business hours or until 11:00 p.m., whichever is later, when said sign is located adjacent to a residential district; further provided that where the sign is illuminated by a light or lights reflected upon it, direct rays of light shall not beam upon any residential building, into any residential district or into any street. Clocks and/or thermometers installed for public convenience and information, are exempt from the time limitation.

c. Lighted signs in direct vision of a traffic signal shall not be in red, green or amber illumination.

d. The gross surface area, in square feet, on one (1) side of any business sign on a lot shall not exceed three (3) times the lineal feet of frontage of the building; each side of a lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a structure shall not exceed three (3) times the lineal feet in the separate frontage. The total surface area shall not exceed four hundred (400) square feet for each face of the sign. Individual letters with no background shall be measured by the minimum rectangular area necessary to encompass such letter, or by a combination of rectangles as are necessary to encompass letters of irregular dimensions.

e. Any sign located within three (3) feet of a driveway or parking area, or within fifty (50) feet of the intersection of two (2) or more streets, shall have its lowest elevation at least ten (10) feet above curb level.

f. Signs within fifty (50) feet of a residential district shall be affixed to, or be a part of the building.

g. A maximum of two (2) signs (only one [1] on a facade) shall be allowed for a business or profession conducted on the premises.

h. The advertising or business sign shall be allowed to be affixed flat against the face of the building, be affixed to the front edge of a marquee parallel to a road, street or highway right-of-way or be affixed so as to extend over a road, street or highway right-of-way. An advertising or business sign that extends over a road, street or highway right-of-way must meet all of the following requirements:

1. Before erecting the sign, the owner of the sign obtains written permission and approval from the City Administrator or his or her designee.

2. The sign does not restrict pedestrian traffic and is not a safety hazard to pedestrians or the motoring public.

3. No portion of the sign shall be less than eight (8) feet above the level of the sidewalk, road, street or highway right-of-way.

4. The sign shall not extend beyond a point two (2) feet inside the curb line of the road, street or highway right-of-way.

5. The sign shall not extend any farther away than four (4) feet from the building, pole or structure.

i. Sandwich board signs may be allowed, provided that said sign is permanently affixed to the surface on which it rests.

(4) Sign regulations for the I-1, I-2 and I-P Districts:

a. Advertising and business signs (single-faced or double-faced) shall be allowed in I-1, I-2 and I-P Districts, subject to the following regulations, and subject to construction standards set forth in the building code or other City regulations:

1. Flashing signs shall be permitted only upon approval of the Building Official, provided that it is first determined that the location and colors will in no way create a traffic hazard, or confusion with traffic lights and with lights on emergency vehicles, and that the direct rays of the sign will not be directed into any residential district.

2. Nonflashing signs shall be permitted, provided that where the sign is illuminated by a light or lights reflected upon it, direct rays of light shall not beam upon any residential building, into any residential district or into any street.

3. Lighted signs in direct vision of a traffic signal shall not be in red, green or amber illumination.

4. The gross surface area, in square feet on one (1) side of any business sign on a lot shall not exceed three (3) times the lineal feet of frontage of the lots; each side of a lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a lot shall not exceed three (3) times the lineal feet in the separate frontage. Individual letters, with no background, shall be measured by the minimum rectangular area necessary to encompass such letter, or by a combination of rectangles as are necessary to encompass letters of irregular dimensions.

5. Any sign located within three (3) feet of a driveway or parking area, or within fifty (50) feet of the intersection of two (2) or more streets, shall have its lowest elevation at least ten (10) feet above curb level.

6. Signs within fifty (50) feet of a residential district shall be affixed to or be a part of the building.

7. A maximum of two (2) signs (only one [1] on a facade) shall be allowed for a business or profession conducted on the premises.

8. The advertising or business sign shall be allowed to be affixed flat against the face of the building, be affixed to the front edge of a marquee parallel to a road, street or highway right-of-way or be affixed so as to extend over a road, street or highway right-of-way. An advertising or business sign that extends over a road, street or highway right-of-way must meet all of the following requirements:

a) Before erecting the sign, the owner of the sign obtains written permission and approval from the City Administrator or his or her designee.

b) The sign does not restrict pedestrian traffic and is not a safety hazard to pedestrians or the motoring public.

c) No portion of the sign shall be less than eight (8) feet above the level of the sidewalk, road, street or highway right-of-way.

d) The sign shall not extend beyond a point two (2) feet inside the curb line of the road, street or highway right-of-way.

e) The sign shall not extend any farther away than four (4) feet from the building, pole or structure.

9. Sandwich board signs may be allowed, provided that said sign is permanently affixed to the surface on which it rests.

b. Billboards will be permitted in I-1, I-2 and I-P Districts if they conform to the following provisions:

1. The owner shall agree, at the time of issuance of the permit, to place and maintain on such billboard, the name of the person owning, in charge of or in control of said billboard.

2. No billboard shall be erected, altered, constructed, reconstructed or moved, until an application and plans shall have been filed with the Building Official, and shall have been approved by the Building Official as to size, location and construction.

3. Billboards shall not exceed twenty (20) feet in height above ground.

4. The owner, lessee and manager of such billboard, and the owner of the sign, shall maintain and keep the ground area around the sign clean, sanitary, inoffensive and free and clean of weeds and noxious substances.

5. Plans for billboards in the fire limits shall be referred to the Fire Department for review and recommendation.

6. No billboard shall project beyond the front, side or rear building line established for the district as set forth in this Chapter.

7. No billboard shall exceed five hundred (500) square feet in area (on a single face).

8. It shall be unlawful to construct or maintain, or cause to be constructed or maintained, any billboard in such a manner as to:

- a) Obstruct the view of street crossings or railroad crossings;
- b) Be unable to stand a pressure of at least forty (40) pounds per square foot of advertising surface;
- c) Be dangerous to the public by falling or blowing down;
- d) Increase the danger of loss by fire or to increase fire insurance rates; and/or
- e) Approach nearer than five (5) feet from any building, unless attached to the building.

9. Billboards hereafter erected, constructed, reconstructed, altered or moved in the City and the planning area shall be constructed in such a manner and of such material that they shall be safe and substantial;

10. Billboards supported by the ground shall have all posts set in concrete.

(5) Unilluminated subdivision or development signs will be permitted in all zoning districts subject to the following regulations:

- a. Only (1) one sign shall be permitted per development.
- b. No sign shall exceed forty (40) square feet in surface area, or six (6) feet in height above normal grade.
- c. No sign shall be located closer than eight (8) feet from any side or rear lot line.
- d. No sign shall be located closer to the front lot line than one-half (½) the required front yard.
- e. It shall be unlawful to construct or maintain, or cause to be constructed or maintained, any sign in such a manner as to:
  1. Obstruct the view of street crossings or railroad crossings;
  2. Be unable to stand a pressure of at least forty (40) pounds per square foot of surface;
  3. Be dangerous to the public for any reason; and/or
  4. Approach nearer than ten (10) feet from any building.
- f. All signs shall be designed and maintained in such a manner as to ensure visual compatibility with surrounding development.

g. Plans for all subdivision or development signs shall be submitted for review and comment by the Planning and Zoning Commission prior to issuance of a permit for construction.

(6) Unilluminated temporary construction company signs will be permitted in all zoning districts, subject to the following regulations:

a. Only one (1) sign shall be permitted per construction location.

b. Sign display shall be permitted only for the actual construction period.

c. Signs shall be located no closer than five (5) feet from any property line, and shall not obstruct the view of traffic approaching a street intersection, or create other hazards of any kind.

d. Signs shall not project higher than six (6) feet above the surrounding ground level.

e. Signs shall not exceed eight (8) square feet in surface area. (Ord. 839 §800.02, 1986; Ord. 1022 §1, 2000; Ord. 1093 §§1—3, 2006)

**Sec. 16-18-30. Permits and fees.**

(a) A permit shall be required for the erection, construction or alteration of any sign in the City and the planning jurisdiction.

(b) Application for permits by other than the property owner shall be accompanied, in each instance, by either a letter authorizing the placement of a sign on the land or building, signed by the owner or his or her duly authorized agent, or accompanied by a lease showing the right of the applicant. Such application shall conform to the regulations herein provided. No signboard shall be erected or painted on any area until the application is acted upon and granted.

(c) A charge shall be made for each permit granted.

(d) If a sign for which a permit is granted is not erected within sixty (60) days from the date of the permit, the permit shall, unless renewed, become void.

(e) Advertising painted or placed on a structure shall be deemed subject to these regulations if permanent and over twelve (12) square feet in area.

(f) All signs shall be constructed, located and placed in accordance with local ordinances and state laws.

(g) Permits are issued for the life of the sign so long as it is kept in good condition and changing conditions do not make it a hazard or undesirable to adjoining property owners. In such case, the City or County, whose jurisdiction shall apply, may direct its removal. (Ord. 839 §800.03, 1986)

**Sec. 16-18-40. Nonconforming signs.**

(a) All advertising and business signs in zoning districts C-1, C-2, C-3, I-1 and I-P established and constructed after the effective date of the initial ordinance codified herein shall conform to applicable City, state and federal regulations for said signs.

(b) All advertising and business signs established and constructed after the effective date of the initial ordinance codified herein in zoning districts other than those enumerated in Subsection (a) above shall conform to all sign regulations applicable to the zoning district in which the sign is located. (Ord. 893 §1, 1991; Ord. 1022 §1, 2000; Ord. 1089 §1, 2006; Ord. 1093 §4, 2006)

**Sec. 16-18-50. Removal of signs from vacant buildings.**

Signs located on vacant buildings shall be removed by the property owner or his or her authorized agent within fifteen (15) days after said sign has been determined to be a threat to the safety of the public by the Building Official or his or her designated appointee. (Ord. 839 §800.05, 1986; Ord. 1048, 2002)

**ARTICLE XIX**

**Building Permits and Certificates of Zoning Compliance**

**Sec. 16-19-10. Administration and enforcement.**

(a) An Administrative Official designated by the City Council shall administer and enforce this Chapter. He or she may be provided with the assistance of such other persons as the City Council may direct.

(b) If the Administrative Official shall find that any of the provisions of this Chapter are being violated, he or she shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Chapter to ensure compliance with or to prevent violation of its provisions. (Ord. 839 §900.01, 1986)

**Sec. 16-19-20. Building permits.**

No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor, issued by the Administrative Official. No building permit shall be issued by the Administrative Official except in conformity with the provisions of this Article, unless he or she received a written order from the Board of Adjustment and Appeals in the form of an administrative review, special exception or variance, as provided by this Chapter. (Ord. 839 §900.02, 1986)

**Sec. 16-19-30. Application for building permit.**

(a) All applications for building permits shall be accompanied by plans, in triplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and

locations on the lot of any building already existing; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including any existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Chapter.

(b) One (1) copy of the plans shall be returned to the applicant by the Administrative Official, after he or she shall have marked such copy either as approved or disapproved, and attested to the same by his or her signature on such copy. The original and one (1) copy of the plans, similarly marked, shall be retained by the Administrative Official. (Ord. 839 §900.03, 1986; Ord. 1022 §1, 2000)

**Sec. 16-19-40. Certificates of zoning compliance.**

(a) It is unlawful to use, occupy or permit the use or occupancy of any building or premises, or both or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use of structure, until a certificate of zoning compliance shall have been issued therefor by the Administrative Official, stating that the proposed use of the building or land conforms to the requirements of this Chapter.

(b) A temporary certificate of zoning compliance may be issued by the Administrative Official for a period not exceeding six (6) months, during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

(c) The Administrative Official shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished, upon request, to any person.

(d) Failure to obtain a certificate of zoning compliance shall be a violation of this Article and punishable under Section 16-21-80 of this Chapter. (Ord. 839 §900.04, 1986)

**Sec. 16-19-50. Expiration of building permit.**

(a) If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire and shall be cancelled by the Administrative Official, and written notice thereof shall be given to the persons affected.

(b) If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be cancelled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (Ord. 839 §900.05, 1986)

**Sec. 16-19-60. Construction and use to be as authorized.**

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement and construction set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized, shall be deemed a violation of this Article, and punishable as provided by Section 16-21-80 of this Chapter. (Ord. 839 §900.06, 1986; Ord. 1022 §1, 2000)

**ARTICLE XX**

**Appeal Procedures**

**Sec. 16-20-10. Intent.**

(a) It is the intent of this Article that all questions of interpretation and enforcement shall be first presented to the Administrative Official, that such questions shall be presented to the Board of Adjustment and Appeals only on appeal from the decision of the Administrative Official and that recourse from the decisions of the Board of Adjustment and Appeals shall be to the courts as provided by law.

(b) It is further the intent of this Article that the duties of the City Council in connection with this Article shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Article and this Chapter. Under this Chapter, the City Council shall have only the duties of:

- (1) Considering and adopting or rejecting proposed amendments, or the repeal of this Chapter, as provided by law; and
- (2) Establishing a schedule of fees and charges as stated in Section 16-21-10 of this Chapter. (Ord. 839 §1100.01, 1986)

**Sec. 16-20-20. Powers and jurisdictions.**

(a) The Board of Adjustment and Appeals shall administer the details of appeals or other matters referred to it regarding the application of this Chapter.

(b) The Board of Adjustment and Appeals shall have the following specific powers:

- (1) To hear and decide on appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Administrative Official in the enforcement of this Chapter;
- (2) To interpret the provisions of this Chapter in such a way as to carry out the intent and purposes of the adopted comprehensive City plan, and as shown upon the Zoning District Map fixing the several districts accompanying and made a part of this Chapter, where the street layout actually on the ground varies from the street layout as shown on the Zoning District Map;

(3) To permit a variation in the yard requirements of any district where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot or topographical or other conditions, provided that such variation will not seriously affect any adjoining property or the general welfare, or where variations may be permitted which allow unusual arrangement on the lot and still clearly and unmistakably accomplish the intent of this Chapter; the Board must find that the granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual hardship or difficulty; and

(4) To hear and grant variances to district zoning regulations in accordance with the detailed requirements of the individual zone. (Ord. 839 §1100.02, 1986; Ord. 915 §4, 1993)

### **Sec. 16-20-30. Appeals.**

Appeals to the Board of Adjustment and Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment and Appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment and Appeals, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Adjustment and Appeals or by a court of record, on application or notice to the officer from whom the appeal is taken, and on due cause shown. The Board of Adjustment and Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent or by attorney. (Ord. 839 §1100.03, 1986)

### **Sec. 16-20-40. Variances.**

(a) No variances shall be authorized by the Board of Adjustment and Appeals unless it finds that:

- (1) The strict application of the ordinance would produce undue hardship;
- (2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (3) The authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance; and
- (4) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

(b) No variance shall be authorized unless the Board of Adjustment and Appeals finds that the condition or situation of the property concerned, or the intended use of the property, is not of so

general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Chapter.

(c) The Board of Adjustment and Appeals shall also find that the variance, if granted, is in harmony with the intended spirit and purpose of this Chapter, and does not constitute a direct and obvious amendment to the district regulations or district boundaries.

(d) Every variance granted or denied by the Board of Adjustment and Appeals shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variance, a copy of which shall be filed in the office of the City Clerk, to be available for public inspection. (Ord. 839 §1100.04, 1986)

**Sec. 16-20-50. Special exceptions.**

Special exceptions to the provisions of this Chapter shall be as defined herein. All applications and requests for special exceptions shall be referred to, and considered by, in the first instance, the Planning and Zoning Commission. (Ord. 839 §1100.05, 1986; Ord. 915 §5, 1993; Ord. 1022 §1, 2000)

**Sec. 16-20-60. Special use permit.**

Exceptions to this Chapter shall be made by special use permit after the request has been duly advertised and a public hearing held as required by law. (Ord. §1100.05.01, 1986)

**Sec. 16-20-70. Filing procedure.**

Prior to review of the request of an exception by the Planning and Zoning Commission, the applicant shall:

(1) File an application on forms provided by the City;

(2) File with the application a statement certifying that the applicant is the lawful owner of the real estate upon which the excepted use is proposed, or that he or she has the lawful right to receive a conveyance thereof if the application is granted; and

(3) File a form of declaration of restrictions, indicating use which is to be made by the legal owner if the application is granted. Said restrictions must show that use of the land will be solely that which was applied for as an excepted use. The restriction must provide that, if such use is abandoned or is proposed to be changed, the subsequent use shall be in conformity with the zoning restrictions in effect as to the land prior to authorization of the exception, unless a new application for an excepted use is made and granted. (Ord. 839 §1100.05.02, 1986; Ord. 915 §6, 1993; Ord. 1022 §1, 2000)

**Sec. 16-20-80. Plot plan.**

A plot plan shall be filed with the application showing:

(1) The legal dimension of the tract to be used;

- (2) The location of all proposed improvements, including curb cut access, off-street parking and other such facilities as the applicant proposes to install;
- (3) Grade elevations;
- (4) Building setbacks from all property lines;
- (5) Front, side and rear elevations of all improvements to be erected;
- (6) Such perspective drawings of the proposed improvements, in such detail as the Planning and Zoning Commission may require, as will clearly show the finished appearance of the proposed improvements;
- (7) Location and type of planting, screening or walls; and
- (8) Such other items as the Planning and Zoning Commission shall deem reasonably necessary to process the application properly. (Ord. 839 §1100.05.03, 1986; Ord. 915 §6, 1993, Ord. 1022 §1, 2000)

**Sec. 16-20-90. Factors for consideration.**

In considering any application for an exception under this Chapter, the Planning and Zoning Commission shall give consideration to the comprehensive plan of the City, and the health, safety, morals, comfort and general welfare of the inhabitants of the City, including but not limited to, the following factors:

- (1) The stability and integrity of the various zoning districts;
- (2) Conservation of property values;
- (3) Protection against fire and casualties;
- (4) Observation of general police regulations;
- (5) Prevention of traffic congestion;
- (6) Promotion of traffic safety and the orderly parking of motor vehicles;
- (7) Promotion of the safety of individuals and property;
- (8) Provision for adequate light and air;
- (9) Prevention of overcrowding and excessive intensity of land uses;
- (10) Provision for public utilities and schools;
- (11) Invasion by inappropriate uses;
- (12) Value, type and character of existing or authorized improvements and land uses;

(13) Encouragement of improvements and land uses in keeping with overall planning; and

(14) Provision for orderly and proper urban renewal, development and growth. (Ord. 839 §1100.05.04, 1986; Ord. 915 §6, 1993; Ord. 1022 §1, 2000)

**Sec. 16-20-100. Authorization for exceptions and special use permits.**

(a) Exceptions may be authorized and special use permits granted by the Planning and Zoning Commission only in those zones and for those activities which are specifically authorized by the individual zone regulations.

(b) Exceptions and special use permits for automobile wrecking yards, junkyards and scrap processing yards shall be subject to the following:

(1) Located on a tract of land at least three hundred (300) feet from a residential district zone.

(2) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform height, at least six (6) feet high, and uniform texture and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the neighborhood. Fencing materials shall be limited to those which have been specifically manufactured for fencing use and shall be subject to review and approval by the City prior to installation. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard.

(3) No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge, fence or wall, or within the public right-of-way.

(4) Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department. Said burning, when permitted, shall be done during daylight hours only.

(5) Any other requirement deemed appropriate and necessary by the Planning and Zoning Commission for the protection of the general health and welfare.

(6) Special use permits granted under this Article shall be subject to annual review and renewal by the Planning and Zoning Commission. (Ord. 839 §1100.05.05, 1986; Ord. 915 §6, 1993; Ord. 1022 §1, 2000)

**Sec. 16-20-110. Performance.**

(a) In making any decision varying or modifying any provisions of this Chapter, the Board of Adjustment and Appeals shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots and other appropriate safeguards as required to protect adjoining property.

(b) In making any decision recommending the grant of a special exception to the district regulations, the Planning and Zoning Commission shall impose such restrictions, terms, time

limitations, landscaping, improvement of off-street parking lots and other appropriate safeguards as required to protect adjoining property.

(c) In lieu of actual construction of any required improvements imposed in respect of variances or special exceptions, the Board of Adjustment and Appeals and the Planning and Zoning Commission may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the City, and conditioned upon actual completion of such improvement, within a specified time, and the City Council may enforce such bond by all equitable means. Bonds or other security shall be filed with the City Clerk. (Ord. 839 §1100.06, 1986; Ord. 915 §7, 1993; Ord. 1022 §1, 2000)

**Sec. 16-20-120. Binding effect of recommendation.**

After consideration of any application or request for allowance of a special exception, pursuant to this Chapter, the Planning and Zoning Commission shall forward its recommendation upon such application for approval, approval with modifications and requirements, or denial, to the Board of Adjustment and Appeals for final action upon such requests. The final recommendation of the Planning and Zoning Commission shall be binding upon the Board of Adjustment and Appeals, and such recommendation shall not be modified, changed, amended or otherwise rejected, by the Board of Adjustment and Appeals, without further recommendation of the Planning and Zoning Commission. (Ord. 915 §8, 1993; Ord. 1022 §1, 2000)

**Sec. 16-20-130. Appeals from Board of Adjustment and Appeals.**

Any person or persons, or an officer, department, board or bureau of the City, aggrieved by any decision of the Board of Adjustment and Appeals, may seek review by a court of record of such decision in the manner provided by state law. (Ord. 839 §1000, 1986; Ord. 1022 §1, 2000)

**ARTICLE XXI**

**Administration**

**Sec. 16-21-10. Fees, charges and expenses.**

(a) The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this Chapter. The schedule of fees shall be posted in the office of the Administrative Official, and may be altered or amended only by the City Council.

(b) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. (Ord. 839 §1200, 1986)

**Sec. 16-21-20. Amendment of Chapter.**

(a) The City Council may from time to time amend, supplement or change the district boundaries or regulations contained in this Chapter.

(b) A proposal for an amendment or a change in zoning may be initiated by the City Council or by the Planning and Zoning Commission or upon application of the owner of the property affected.

(c) All such proposed changes shall first be submitted to the Planning and Zoning Commission for recommendation and report.

(d) Upon the development of tentative recommendations, the Planning and Zoning Commission shall hold a public hearing thereon, and shall cause an accurate, written summary to be made of the proceedings. (Ord. 839 §1300.01, 1986; Ord. 1022 §1, 2000)

**Sec. 16-21-30. Applications.**

(a) Any party desiring any change in zoning district boundaries or regulations contained in this Chapter as to any lot, tract or area of land shall file with the City Clerk an application upon forms provided by the City, and such application shall be accompanied by such data and information as may be prescribed by the Planning and Zoning Commission.

(b) At the time of filing the application with the City Clerk, the applicant shall provide the City Clerk with the names and addresses of all owners of any land located within two hundred (200) feet of the outer limits of the area to which the applicant desires a change of zoning. (Ord. 839 §1300.02, 1986; Ord. 1022 §1, 2000)

**Sec. 16-21-40. Public hearing and notice.**

(a) Before the Planning and Zoning Commission shall, by proper action, formulate its recommendation to the City Council on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the City Council, the Planning and Zoning Commission, or others, the Planning and Zoning Commission shall hold a public hearing on such proposal.

(b) The secretary of the Planning and Zoning Commission shall cause a notice of public hearing to be published once in the official City newspaper, and at least five (5) days shall elapse between the date of such publication and the date set for hearing. Additionally, the property involved shall be publicly posted with large and conspicuous signs.

(c) The printed notice shall fix the time and place for such hearing and shall contain a statement regarding the proposed changes in the regulations or restrictions, or in the boundary of any district. If such proposed amendment will affect specific property, the legal description and general street address shall be given, provided that in addition to such publication notice, written notice of such proposed change shall be mailed to all the owners of property within the area proposed to be changed and those properties immediately adjacent in the rear thereof, extending one hundred (100) feet therefrom, or of those directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite lots. (Ord. 839 §1300.3, 1986; Ord. 1022 §1, 2000)

**Sec. 16-21-50. Protest.**

If a protest against such amendment is filed in the office of the City Clerk within fifteen (15) days after the date of the conclusion of the public hearing, pursuant to the publication notice, the protest being duly signed and acknowledged by the owners of twenty percent (20%), or more, either of the

area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourth ( $\frac{3}{4}$ ) of all the voting members of the City Council. (Ord. 839 §1300.04, 1986)

**Sec. 16-21-60. Minimum requirements.**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern. (Ord. 839 §1400, 1986)

**Sec. 16-21-70. Complaints regarding violations.**

Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Administrative Official. He or she shall properly record such complaint, immediately investigate and take action thereon, as provided by this Chapter. (Ord. 839 §1500, 1986)

**Sec. 16-21-80. Penalties for violation.**

(a) Violation of the provisions of this Chapter, or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions), shall constitute a misdemeanor. Any person who violates this Chapter, or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(b) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(c) Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 839 §1600, 1986)

**ARTICLE XXII**

**Vested Property Rights**

**Sec. 16-22-10. Purpose.**

The purpose of this Article is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S. (Ord. 1013, 1999)

**Sec. 16-22-20. Definitions.**

As used in this Article, unless the context otherwise requires:

(1) *Site specific development plan* means, for those developments for which the landowner wishes the creation of a vested property right in the development of a site, the approval by the City of the project, at a hearing conducted at the request of the landowner, which hearing follows the successful approval of the development at all other required stages of the development review process.

a. Failure of the landowner to request such a hearing renders the approval not a site specific development plan, and no vested property right shall be deemed to have been created.

b. The City Council may by agreement with the landowner designate an approval other than that described above to serve as the site specific development plan approval for a specific project.

(2) *Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Ord. 1013, 1999)

**Sec. 16-22-30. Application process.**

A landowner wishing a vested property right in a site specific development plan must apply to the City on a City-approved application form for such vested right. Upon receipt of the application for a vested right in a site specific development plan, the City and landowner shall undertake to create a development agreement. The completed development agreement shall then be submitted for notice, hearing and approval as a site specific development plan as set forth in this Article. (Ord. 1013, 1999)

**Sec. 16-22-40. Notice and hearing.**

No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice may, at the City's option, be combined with the notice required by Section 31-23-304, C.R.S., for zoning regulations, or with any other required notice. At such hearing, interested persons shall have an opportunity to be heard. (Ord. 1013, 1999)

**Sec. 16-22-50. Approval; effective date; amendments.**

A site specific development plan shall be deemed approved upon the effective date of the City Council approval action relating thereto, as set forth at Section 16-22-20 above. In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested right, shall be the date of the approval of the original site specific development plan, unless the City Council specifically finds to the contrary and incorporates such finding in its approval of the amendment. (Ord. 1013, 1999)

**Sec. 16-22-60. Notice of approval.**

Each development agreement constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68

of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the City. (Ord. 1013, 1999)

**Sec. 16-22-70. Payment of costs.**

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the City as a result of the site specific development plan review, including publication of notices, public hearing and review costs. At the option of the City, these costs may be imposed as a flat fee or a fee per square foot. (Ord. 1013, 1999)

**Sec. 16-22-80. Other provisions unaffected.**

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property. (Ord. 1013, 1999)

**Sec. 16-22-90. Limitations.**

Nothing in this Chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Article shall be deemed to be repealed, as the provisions hereof are no longer effective. (Ord. 1013, 1999)

**Sec. 16-22-100. Effective date.**

The provisions of this Article shall be effective beginning December 31, 1999 at 6:00 p.m., or the date of adoption of the ordinance codified herein, whichever is earlier. (Ord. 1013, 1999)

**ARTICLE XXIII**

**Flood Damage Control**

**Sec. 16-23-10. Findings of fact.**

(a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 785 §1.2; prior code §11A-1)

**Sec. 16-23-20. Statement of purpose.**

It is the purpose of this Article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard, so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 785 §1.3; prior code §11A-2)

**Sec. 16-23-30. Flood loss reduction generally.**

In order to accomplish its purposes, this Article includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards in other areas. (Ord. 785 §1.4; prior code §11A-3)

**Sec. 16-23-40. Definitions.**

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage, and to give this Article its most reasonable application.

(1) *Appeal* means a request for a review of the City Administrator's interpretation of any provision of this Article, or a request for a variance.

(2) *Area of shallow flooding* means a designated AO or VO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

(3) *Area of special flood hazard* means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

(4) *Base flood* means the flood having a one-percent chance of being equalled or exceeded in any given year.

(5) *Development* means any man-made change in improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

(6) *Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation of runoff of surface waters from any source.

(7) *Flood Insurance Rate Map (FIRM)* means the official map on which the Federal Emergency Management Agency has delineated both the areas with special flood hazards and the risk premium zones applicable to the community.

(8) *Flood Insurance Study* means the official report provided by the Federal Emergency Management Agency that includes flood profiles, flood boundary Floodway Map and the water surface elevation of the base flood.

(9) *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(10) *Lowest floor* means the lowest floor of the lowest enclosed area, including the basement. An unfinished or flood resistant enclosure, useable solely for parking of vehicles or building access storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

(11) *Manufactured home*, for the purposes of this Article, means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes parked trailers, travel trailers and other similar vehicles placed on a site greater than one hundred eighty (180) consecutive days.

(12) *Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(13) *New construction* means structures for which the *start of construction* commenced on or after the effective date of the ordinance codified herein.

(14) *Start of construction* includes substantial improvement, and means the date a building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The *actual start* means the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include:

- a. Land preparation, such a clearing, grading and filling;
- b. The installation of streets and/or walkways;
- c. Excavation for a basement, footings, piers or foundations or the erection of temporary forms; or
- d. The installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units, or not a part of the main structure.

(15) *Structure* means a wall or roofed building or manufactured home that is principally above ground.

(16) *Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, *substantial improvement* is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term *substantial improvement* does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(17) *Variance* means a grant of relief from the requirements of this Article, which permits construction in a manner that would otherwise be prohibited by this Article. (Ord. 785 §1.2; Ord. 790 §1; prior code §11A-4; Ord. 868 §§1, 2, 3, 1989; Ord. 1022 §1, 2000)

**Sec. 16-23-50. Applicability.**

This Article applies to all areas of special flood hazards within the jurisdiction of the City. (Ord. 785 §3.1; prior code §11A-5)

**Sec. 16-23-60. Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Lamar," dated May 17, 1982, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study is on file at the City Clerk's office. (Ord. 785 §3.0; Ord. 790 §1; prior code §11A-6; Ord. 1022 §1, 2000)

**Sec. 16-23-70. Compliance.**

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. (Ord. 785 §3.3; prior code §11A-7)

**Sec. 16-23-80. Conflicting provisions.**

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 785 §3.4; prior code §11A-8)

**Sec. 16-23-90. Interpretation.**

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City Council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 785 §3.5; prior code §11A-9; Ord. 1022 §1, 2000)

**Sec. 16-23-100. 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 Article does

not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article 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 Article or any administrative decision lawfully made thereunder. (Ord. 785 §3.6; prior code §11A-10; Ord. 868 §4, 1989)

**Sec. 16-23-110. Development permit.**

(a) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16-23-60. Application for a development permit shall be made on forms furnished by the City Administrator and may include, but not be limited to:

(1) Plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the area in question; and

(2) Existing or proposed structures, fill, storage of materials, drainage facilities and the location for the foregoing.

(b) Specifically, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been flood proofed;

(3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 16-23-160; and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. (Ord. 785 §4.1; prior code §11A-11)

**Sec. 16-23-120. Designation of City Administrator.**

The City Administrator is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Ord. 785 §4.2; prior code §11A-12)

**Sec. 16-23-130. Duties and responsibilities of City Administrator.**

Duties of the City Administrator shall include, but not be limited to:

(1) Permit review.

a. Review all development permits to determine that the permit requirements of this Article have been satisfied;

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 16-23-170 are met;

(2) Use of other base flood data. When base flood data has not been provided in accordance with Section 16-23-60, the City Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 16-23-160;

(3) Information to be obtained and maintained.

a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement,

b. For all new or substantially improved flood proofed structures, verify and record the actual elevation (in relation to mean sea level), and maintain the flood proofing certifications required in Section 16-23-110, and

c. Maintain for public inspection all records pertaining to the provisions of this Article;

(4) Alteration of watercourses.

a. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

b. Require that maintenance is provided within the altered or relocated portion of a watercourse, so that the flood-carrying capacity is not diminished; and

(5) Interpretation of FIRM boundaries. Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (i.e., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16-23-140. (Ord. 785 §4.3; prior code §11A-13; Ord. 868 §6, 1989; Ord. 1022 §1, 2000)

#### **Sec. 16-23-140. Variance procedure.**

(a) Appeal Board.

(1) The Board of Adjustment and Appeals shall hear and decide appeals and requests for variances from the requirements of this Article.

(2) The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Administrator in the enforcement or administration of this Article.

(3) Those aggrieved by the decision of the Board of Adjustment and Appeals or any taxpayer may appeal such decision to the District Court.

(4) In passing upon such applications, the Board of Adjustment and Appeals shall consider all technical evaluations, all relevant factors and standards specified in other sections of this Article and:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; and
- i. 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, streets and bridges.

(5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to, and surrounded by, lots with existing structures constructed below the base level, provided that items a through i in Subparagraph (4) above have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justifications required for issuing the variance increases.

(6) Upon consideration of the factors of Subparagraph (4) above, and the purposes of this Article, the Board of Adjustment and Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

(7) The City Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(b) Conditions for variances.

(1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Article.

(2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued to afford relief, upon a determination that the variance is the minimum necessary, considering the flood hazard.

(4) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. 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 on or victimization of the public as identified in Subparagraph (a)(4) above, or conflict with existing local laws or ordinances.

(5) 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. (Ord. 785 §4.4; prior code §11A-14; Ord. 868 §§7, 8, 1989; Ord. 1022 §1, 2000)

#### **Sec. 16-23-150. Flood hazard reduction.**

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure, and capable of resisting the hydrostatic and hydrodynamic loads.

b. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is for resisting wind forces. Specific requirements may be:

1. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;

2. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at the intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;

3. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds; and

4. Any additions to the manufactured home shall be similarly anchored.

(2) Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

c. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them, during flooding.

(4) Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less. (Ord. 785 §5.1; prior code §11A-15; Ord. 868 §§8, 9, 1989)

**Sec. 16-23-160. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 16-23-60, or Section 16-23-130(2), the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

a. Be flood proofed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Article. Such certifications shall be provided to the official as set forth in Section 16-23-130.

(3) Manufactured homes.

a. Manufactured homes shall be anchored in accordance with Section 16-23-150(1)(b).

b. For new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, the requirements are as follows:

1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;

2. Adequate surface drainage and access for a hauler are provided; and

3. In the instance of elevation on pilings:

a) Lots are large enough to permit steps,

b) Piling foundations are placed in stable soil no more than ten (10) feet apart, and

c) Reinforcement is provided for pilings more than six (6) feet above the ground level.

c. No manufactured home shall be placed in a floodway, except in an existing manufactured home park or existing manufactured home subdivision. (Ord. 785 §5.2; prior code §11A-16; Ord. 1022 §1, 2000)

**Sec. 16-23-170. Floodways.**

Located within areas of special flood hazard established in Section 16-23-60 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Subparagraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 16-23-150, 16-23-160 and this section.

(3) Prohibit the placement of any manufactured homes, except in an existing manufactured home park or existing manufactured home subdivision. (Ord. 785 §5.3; prior code §11A-17; Ord. 1022 §1, 2000)

**ARTICLE XXIV**

**C-X Adult Entertainment Overlay District**

**Sec. 16-24-10. Intent and purpose of overlay district.**

The purpose of the C-X Adult Entertainment Overlay District is to identify and prescribe specific requirements and conditions for the location of certain defined adult businesses and identify areas within the City where such activities can occur. The district is designed as an overlay district in certain zoning districts based on the regional character of the activities. Adult business uses do not occur on a frequent basis and require separate and specifically designed regulations for their development. Such adult businesses are recognized as having serious objectionable operational characteristics, particularly if several of such uses are concentrated, thereby having a harmful effect upon adjacent areas. The location of such uses has an additional harmful effect upon adjacent areas and could contribute to the blighting and downgrading of the surrounding neighborhood. The special regulation of adult businesses is necessary to ensure that the adverse effect of such uses will not contribute to the blighting or downgrading of surrounding neighborhoods, whether residential or nonresidential, by location or concentration, and to ensure the stability of such neighborhoods. (Ord. 1045, 2002)

**Sec. 16-24-20. Definitions.**

The definitions stated in this Section shall apply for purposes of this Article:

*Adult business* means any business enterprise:

- a. That has as a regular and substantial business purpose the sale, display or rental of goods that are designed for use in connection with *specified sexual activities* or that emphasize matters depicting, describing or related to *specified sexual activities* or *specified anatomical areas*; or
- b. That has one (1) of the following as a regular and substantial business purpose:
  1. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display *specified anatomical areas* or *specified sexual activities*, or
  2. The providing of services that provide *specified sexual activities* or *specified anatomical areas* ancillary to other pursuits or allow participation in *specified sexual activities* ancillary to other pursuits.

The definition of *adult business* also includes, but is not limited to, any and all of the following, as defined herein:

c. Businesses that offer the following described goods for sale or rent:

1. *Adult bookstore* means an establishment which as a regular and substantial business purpose, offers for sale or rent books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to *specified sexual activities* or *specified anatomical areas*.
2. *Adult news rack* means any coin- or card-operated device that offers for sale, by dispensing, printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to *specified sexual activities* or *specified anatomical areas*.
3. *Adult newsstand* means any freestanding structure, vehicle or booth which as a regular and substantial business purpose offers for sale books, magazines, periodicals or other printed matter which are distinguished or characterized by their emphasis on matter depicting, describing or relating to *specified sexual activities* or *specified anatomical areas*.
4. *Adult retail establishments* means an establishment which, as a regular and substantial business purpose, offers for sale or rent any one (1) or more of the following: instruments, devices, gifts, sexual aids, sexual novelties or paraphernalia which depict or are designed for use in connection with *specified sexual activities* or graphically depict *specified anatomical areas* or any of the materials sold or rented in an adult bookstore as defined herein.

d. Businesses that provide the following entertainment:

1. *Adult encounter parlor* means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate or consort with employees and/or performers or private contractors who display *specified anatomical areas* in the presence of such customers with the intent of providing sexual gratification or stimulation to such customers.

2. *Adult entertainment business* means any enterprise to which the public, patrons or members are invited or admitted, and where providing *adult entertainment* as defined herein is a regular and substantial portion of its business.

3. *Adult entertainment cabaret* means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers or live performances; or material which is primarily characterized by an emphasis on *specified sexual activities* or *specified anatomical areas*.

4. *Adult entertainment studio* (includes the terms *rap studio, exotic dance studio, sensitivity studio or encounter studio*) means an establishment whose premises are physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to *specified sexual activities* or *specified anatomical areas*.

5. *Adult motion picture theater* means an establishment containing a room with seats facing a screen or projection area, where a regular and substantial portion of its business is the exhibition to customers or members of films, videotapes or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished or characterized by an emphasis on matter depicting, describing or relating to *specified sexual activities* or *specified anatomical areas*.

6. *Adult theater* means an establishment located in an enclosed building where a regular and substantial portion of its business is providing the live performance of activities relating to *specified sexual activities* or exhibition of *specified anatomical areas* of live performers, for observation by customer, members or patrons.

7. *Body painting studio* means an establishment where a regular and substantial portion of its business is the maintaining, operating or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customers' view *specified anatomical areas*.

e. Businesses that provide the following described services:

1. *Adult motel* means an enterprise where a regular and substantial portion of its business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motion pictures, video cassettes, DVDs, slides

or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of *specified sexual activities* or *specified anatomical areas* and rents room accommodations for less than twenty-four (24) hours at a time.

2. *Bath house* means an enterprise where a regular and substantial portion of its business is offering baths with other persons present who are nude or displaying *specified anatomical areas*.

*Adult entertainment* means any live activity, exhibition, performance, display, dance or touching of another with any part of the body or any apparatus or appliance, including but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling for purposes of photography, painting, sketching, drawing, sculpting or otherwise, removal of clothing or any service offered for amusement on premises where such activity, exhibition, performance, display, dance or touching of another with any part of the body or any apparatus or appliance is intended to seek to arouse or excite the sexual desires of the employee, other employees or patrons or, if the activity, exhibition, performance, display, dance or touching of another with any part of the body or any apparatus or appliance involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely or opaquely covered.

*Adult entertainment business* means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron or a member.

*Contagious and communicable diseases* means those diseases which are set out in the Colorado Code of Regulations.

*Day care facility* means an establishment or business which provides supervision of facilities for preschool children or provides before-school, after-school or summer care for school age children.

*Employee* as used in this Article means any and all persons, including managers, entertainers, servers, independent contractors and personnel of any description, who work in or at or render any service directly related to the operation of an adult entertainment business.

*Entertainer* means any person who provides adult entertainment within the adult entertainment premises as defined in this Section, whether or not a fee is charged or accepted for entertainment.

*Manager* means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment premises.

*Museum* means any government or nonprofit institution devoted to the procurement, care and display of objects of lasting interest or value which is open to the general public.

*Operator* means any person operating, conducting or maintaining an adult entertainment business or adult entertainment premises.

*Overlay district* means a zoning district which is established for the distinct purpose of defining the area in which a type of business or activity can occur or be located and which is a zoning designation implementing zoning regulations and requirements in addition to those applicable to the zoning designation previously assigned to the area defined by the overlay district.

*Park* means any city, county, state or federal public park.

*Person* means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity or other entity or group of persons however organized.

*Public place* means any area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and automobiles whether moving or not.

*Premises* means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business, including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.

*Regular and substantial portion of its business* means 1) twenty percent (20%) or more of the gross floor space is devoted to that purpose; 2) twenty percent (20%) or more of the retail floor space is devoted to that purpose; 3) twenty percent (20%) or more of the gross sales of the business are derived from that purpose; or 4) twenty percent (20%) or more of the stock in trade is devoted to that purpose.

*Residential district* means, for the purposes of this Article, areas zoned for residential use and defined as districts inclusive of O-E Open Estates District, R-1 Residence District, R-2 Residence District, R-3 Residence District, M-H Mobile Home District and PUD Planned Unit Development District.

*Residential building* means a building which is primarily designed and devoted for human habitation, excluding motels and hotels.

*Server* means any person who serves food or drink at an adult entertainment business or adult business.

*Specified anatomical areas* means (1) uncovered or exposed human genitals, pubic region or pubic hair, buttock, female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or (2) human male genitals in a discernibly erect state, even if completely or opaquely covered.

*Specified sexual activities* means sexual conduct, being actual or simulated; acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a

female; or any sadomasochistic abuse or acts including animals or any latent object in an act of apparent sexual stimulation or gratification. (Ord. 1045, 2002)

**Sec. 16-24-30. Establishment of overlay district.**

A C-X Adult Entertainment Overlay District shall be established as follows:

(1) The C-X Adult Entertainment Overlay District shall be established only by amendment of the zoning maps in accordance with Sections 16-1-20 of this Code and §31-23-301 et seq., C.R.S., provided that the Planning and Zoning Commission of the City shall recommend and the City Council shall find that the proposed C-X Adult Entertainment Overlay District meets all of the requirements without exception described in this Article, and further that the proposed use to be constructed or operated will neither negatively impact nor materially injure property within five hundred (500) feet of the proposed district boundaries.

(2) No C-X Adult Entertainment Overlay District shall be established without the submission and approval of a site development plan. Failure to comply with the plan so approved and established as part of the C-X Adult Entertainment Overlay District shall be deemed to be a violation of this Article.

(3) The C-X Adult Entertainment Overlay District shall be established as an overlay district only in districts designated as C-1 Commercial District, C-2 Commercial District or I-1 Industrial District.

(4) The C-X Adult Entertainment Overlay District shall be established only if the boundaries of the district are a minimum of one thousand (1,000) feet from any church or place of worship, day care facility, park, educational institution, library, museum, community center, residential district, children's amusement park or residential building. (Ord. 1045, 2002)

**Sec. 16-24-40. Location and site requirements for permitted uses.**

Any adult business shall meet the following location and site requirements:

(1) Not more than two (2) of such uses, excluding any uses having a certificate of legal nonconformance, shall be located within three hundred (300) feet of each other as measured in a straight line from the lot line of the affected properties.

(2) All access shall be provided from a public street or roadway.

(3) The property on which such use is located shall have a minimum of fifty (50) feet of street frontage.

(4) The property on which the use is located shall be screened by a solid masonry wall at least six (6) feet in height along the side and rear property lines, provided that the parking lot devoted to said use may be screened by decorative fencing such as wrought iron or brick and need not be screened by a solid masonry wall.

(5) The facility on which the use is located and the parking for such facility shall have a front yard setback of twenty (20) feet, a side yard setback of ten (10) feet and a rear yard setback of ten

(10) feet, provided that where the use is proposed in an existing building and parking lot, the setback requirements need not be met.

(6) The parking and loading requirements of the City shall be met, provided that the City Council may approve a development plan where the parking provided is consistent with solid planning principles in consideration of anticipated use, mass transit accessibility and off-site parking availability. The parking provided on the development plan shall remain available and shall be the basis of a violation if not provided.

(7) If the parking and maneuvering space of any parking lot exceeds seven thousand five hundred (7,500) square feet, at least five percent (5%) of the lot area shall be maintained as landscaped area; provided that a credit toward the overall required landscaped area may be provided if the landscaping provides for trees either at least fifteen (15) feet in height or at least three (3) inches in diameter for each two thousand (2,000) square feet of required landscaped parking area. Additionally, fifteen percent (15%) of the entire lot area, including parking area, shall be maintained as an open landscaped area with a twenty-foot landscape buffer along all street frontage; provided that the City Council may approve the development plan where an appropriate alternative is proposed for an existing building and parking lot, such as decorative wrought iron or brick fencing.

(8) The facility in which the use is located shall be designed in such a fashion that all openings, entries and windows prevent view into such facilities from any pedestrian sidewalk, walkway, street or other public area, provided that the development plan may provide for openings into such facility where needed for security reasons and provided that no merchandise or pictures can be viewed from the sidewalk in front of the building.

(9) The facility in which such use is located shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign area per linear foot of wall length, not to exceed a total of fifty (50) square feet, provided that the City Council may approve the location of up to three (3) signs which collectively shall not exceed a total of fifty (50) square feet in area. The sign(s) shall not flash, blink or move by mechanical means and shall not extend above the roofline of the building. Further, no merchandise or pictures of products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No flashing lights or lighting which leaves the impression of motion or movement shall be permitted. (Ord. 1045, 2002)

#### **Sec. 16-24-50. Site plan.**

The site plan accompanying the application for approval of a C-X Adult Entertainment Overlay District shall include the following information:

- (1) The site plan shall be drawn at a scale of one (1) inch equals one hundred (100) feet or larger.
- (2) The site plan shall delineate the property lines of the proposed project.
- (3) The site plan shall delineate existing rights-of-way and easements.

(4) The site plan shall delineate the general location and width of all proposed streets and public rights-of-way, such as alleys, pedestrian ways and easements.

(5) The site plan shall delineate the solid masonry screening as provided in Subsection 16-24-40(4) of this Article.

(6) The site plan shall delineate the proposed building layout with the front, side and rear building setbacks as required in Subsection 16-24-40(5) of this Article.

(7) The site plan shall characterize the proposed usage of the building and description of the proposed use by type, character and intensity.

(8) The site plan shall delineate the location and number of parking spaces and the proposed parking and loading ratio and its location requirements in accordance with Subsection 16-24-40(6) of this Article.

(9) The site plan shall delineate all points of access and egress.

(10) The site plan shall present, in tabular form, the proposed net density of the use, providing the number of seats, employees or other applicable units of measure.

(11) The site plan shall delineate the gross floor area of the building or structure.

(12) The site plan shall detail the proposed stages of construction for all land in development and improvements with the proposed district.

(13) The site plan shall describe the landscaping to be provided.

(14) The site plan shall delineate the proposed exterior lighting.

(15) The site plan shall delineate the proposed architectural details of the facility.

(16) The site plan shall indicate the signage in accordance with Subsection 16-24-40(9) of this Article.

(17) The site plan shall set forth any other information necessary for determination of the suitability of the proposed use for the site. (Ord. 1045, 2002)

**Sec. 16-24-60. Location of uses outside C-X Adult Entertainment Overlay District.**

No adult business shall be permitted except within a C-X Adult Entertainment Overlay District, subject to the provisions of this Article. (Ord. 1045, 2002)

**Sec. 16-24-70. Penalty.**

It shall be unlawful for any person to violate any of the provisions of this Article. Upon conviction thereof, each such person shall be punished by a fine not to exceed three hundred dollars (\$300.00) or be punished by incarceration for a period not to exceed ninety (90) days, or both such

fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this Article shall constitute a separate and distinct offense. (Ord. 1045, 2002)

**Sec. 16-24-80. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The City Council hereby declares that it would have passed the ordinance codified herein and each section, subsection, subdivision, paragraph, sentence, clause or phrase of the Ordinance codified herein or any part thereof, irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Article or any part thereof be declared unconstitutional. (Ord. 1045, 2002)