Chapter 30 ZONING

ARTICLE I. IN GENERAL

Sec. 30-1. Title.

(a) This Chapter, as amended from time to time, shall be known and may be cited as the *City of Lamar Zoning Code*. It may also be called the *Land Use and Development Code*.

Sec. 30-2. Authority.

(a) This Chapter is authorized by Section 31-23-101, *et. seq.*, C.R.S.; Section 29-20-101, *et. seq.*, C.R.S., Section 31-12-101, *et. seq.*, C.R.S., and Section 24-65-101, *et. seq.*, C.R.S., as amended.

Sec. 30-3. Purposes.

(a) This Chapter is enacted for the purpose of promoting the health, safety, quality of life, convenience, order, prosperity, and welfare of the present and future inhabitants of the City by lessening of congestion in the streets or roads, securing safety from fires and other dangers, providing light and air, avoiding undue congestion of the population, facilitating the adequate provision of transportation, water, wastewater, schools, and other public requirements, securing protection of the tax base, and by other means in accordance with the City of Lamar Comprehensive Plan.

Sec. 30-4. Jurisdiction.

(a) These regulations apply to all land and all land uses within the municipal boundaries of the City of Lamar, Colorado.

Sec. 30-5. Severability.

(a) If any section, subsection, paragraph, clause, phrase or provision of these regulations shall be adjudged invalid or held to be unconstitutional by a court of competent jurisdiction, the validity of these regulations shall not be affected in whole or in part, other than the provision adjudged to be invalid or unconstitutional.

Sec. 30-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 dwelling unit means a smaller, independent residential dwelling unit with separate cooking and bathroom facilities located on the same lot as the primary dwelling unit that can either be a free-standing structure or attached to the principle dwelling or garage, provide the basic requirements of shelter, and meet the adopted building and fire codes, as applicable. An accessory dwelling unit must be affixed to a permanent foundation and connected to City utilities. An accessory dwelling unit does not include mobile homes, recreational vehicles, or travel trailers.

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

Affordable housing unit means a dwelling unit which is available for purchase or rent on terms that would be affordable to households based on Prowers County AMIs earning one hundred (100) percent or less of the area median income for purchase or earning sixty (60) percent or less of the area median income for rental of City residents, as adjusted for family size, and paying less than thirty (30) percent of their gross income for housing, including principal, interest, taxes, insurance, utilities, and homeowners' association fees.

Alley means a public thoroughfare which provides only a secondary means of access to abutting property, the right-of-way of which is 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 joists.

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, 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, and review variance requests, as defined within this article, and in accordance with state laws. The board member composition is defined in Article IX Section 9.2 of the City Charter. Planning and zoning commission members may serve, however, city council liaison members are prohibited from serving on this board.

Boardinghouse 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 or more persons, but not exceeding 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, planner, 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 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 2025 comprehensive plan and future amendments for the development of the community which includes maps, charts, illustrations and texts for the following:

(1) Land use studies;

(2) Goals and objectives;

(3) Population study and forecasts;

(4) Economic study;

(5) Housing survey;

(6) Transportation plan;

(7) Central downtown business district plan;

(8) Community facilities and public utilities plan; and

(9) General development plan.

Condominium means an individually-owned, dwelling unit, or commercial 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:

(1) *Child care.* See *Day care home, Day care center and Large day care home.*

(2) *Day care center* means a facility which is not the caregiver's residence, and which provides day care for 13 or more unrelated children.

(3) *Day care home* means a facility in which the primary caregiver provides day care out of his or her home for two to six unrelated children.

(4) *Large day care home* means a facility in which the primary caregiver provides day care out of his or her home for seven to 12 unrelated children.

(5) *Preschool* means an establishment which provides educational services for unrelated children aged five years and under and/or below the age required for entrance into the public school system.

Dwelling, multiple family or *multifamily* means a residential building designed for three or more dwelling units

Dwelling, single-family means a detached residential dwelling unit, other than a mobile home.

Dwelling, two-family means a detached residential building containing two dwelling units including duplexes.

Dwelling unit means one 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 or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, group home, fraternity or sorority house, lodging house, hotel or motel.

Floodplain means land area subject to inundation from surplus stormwater, as defined by the U.S. Federal Emergency Management Agency (FEMA) flood insurance study, and as depicted on the flood insurance rate map for the community.

Frontage means all the property on one side of a street between two 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 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 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, parking, hiring, servicing, selling or storing motor-driven vehicles.

Good repair means a condition which not only meets minimum standards of health and safety, but which also guarantees continued attractiveness, structural soundness and usefulness.

Grade means the lowest point of elevation of the finished surface of the ground within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

Gross floor area means the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, any space where the floor-to-ceiling height is less than six feet, or any area more than 50 percent below grade.

Group home means a residential dwelling where people are living together as a single housekeeping unit with full-time staff providing care, supervision, and treatment for the exclusive use of citizens protected by the Fair Housing Act Amendments, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Colorado.

Home Business means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support by residents of the dwelling and employees residing off-premises, which may serve patrons on the premises.

Home occupation means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support, only by residents of the dwelling and employees residing off-premises which does not serve patrons on the premises, except in an incidental manner.

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

Hotel and *motel* mean any nonresidential building or portion thereof providing guestrooms used, designed to be used, let or hired out for occupancy by persons on more or less a temporary basis.

Improvement means any building, structure, place, work of art or other object constituting a change to real property or any part thereof.

Industrial use means property used for industrial purposes, such as factory offices, factory warehouses, industrial parks or light and heavy manufacturing buildings.

Junkyard 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 that meets the required site standards of this chapter.

Kennel means any house, building, structure, premises or land where more than three dogs over the age of four months are kept.

Landscaping means the preservation of the existing trees, xeriscaping, shrubs, grass and decorative materials on a lot, tract or parcel of land, the rearrangement thereof or the modification thereof by planting or installing more or different trees, shrubs, grass, groundcover, or decorative materials.

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.

(1) The term "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.

(2) The term "lot" includes the term "plot" or "parcel."

Lot coverage means that area or portion of a lot which is occupied or covered by all buildings on that lot.

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 the definition of the term "yard" in this section.

Lot measurements are defined as follows:

(1) 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.

(2) 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 80 percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80-percent requirement shall not apply.

Lot Lines means front, side, and rear lot lines. The front lot line shall be determined by the main entrance to a property. The rear lot line shall typically be the opposite of the front lot line or located on an alley, or secondary access.

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.

Maintenance means the keeping of property in an existing state with similar and like materials. Examples of maintenance include, but are not limited to, scraping and painting, replacement of rotted wood or broken glass, repair work on steps and porches, replacement of existing doors and windows and replacement of shingles. Examples that are not considered maintenance include, but are not limited to, the alteration of a roof line, addition of bay windows or dormers and addition of porches and roofs.

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

Manufactured home means a single-family dwelling means a factory-built dwelling that is manufactured or constructed to comply with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 and is to be used as a place for human habitation and is attached to an engineered permanent foundation connected to City utilities.

Medical clinic, dental clinic or *health clinic* means any building designed for use by one 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. The definition of the term "medical clinic," "dental clinic" or "health clinic" shall not include a medical marijuana center.

Medical marijuana center means 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 IV of the state constitution and the implementing state statutes and administrative policies. As used in this section, the terms "patient" and "caregiver" shall have the meanings provided in section 14 of article IV of the state constitution and the implementing state statutes and administrative policies.

Medical marijuana retail/dispensary means 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 IV of the state 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 IV of the state constitution and the implementing state statutes and administrative policies.

Mobile home means a dwelling which is designed to be transported on its own permanent chassis after fabrication, and is designed to be used as a dwelling, with or without permanent foundation, when the required plumbing, heating and electrical facilities are connected. *Mobile homes* shall comply with the HUD Code. New or used mobile homes installed in City limits shall comply with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (hereinafter referred to as the *HUD Code*).

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

Modular home or building means a factory-assembled structure that is transportable in multiple sections and assembled on location. It is designed to be used as a dwelling or building with connections to required utilities and is certified by its manufacturers as being constructed in accordance with a nationally recognized building code and is designed to be affixed permanently to its final destination on an approved foundation constructed in compliance with nationally recognized building code. A modular home does not include a mobile home or manufactured home.

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 from which this chapter is derived, 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 or more unrelated, elderly individuals.

Park means an area open to the public and reserved for gathering spaces, community agriculture and recreational, educational, cultural or aesthetic purposes.

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. This commission is 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. The commission members composition is established in Article IX Section 9.4 of the City Charter. Council liaison members are voting members and are counted as part of a required quorum.

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 or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.

Property means real property, including improvements thereon.

Public utility means any business which furnishes the general public telephone service, cable, internet/broadband, 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.

Real property means land that has been legally defined and the improvements to it have been made by human efforts: buildings, machinery, wells, dams, ponds, mines, canals, roads, etc.

Recreation vehicle (*RV*) means a vehicular or portable unit mounted on a chassis and wheels, which either has its own motive power or is mounted on or drawn by another vehicle, such as travel trailers, tent trailers, tiny homes, truck campers, camping trailers or motor homes. A recreational vehicle is generally not designed or intended for use as a permanent dwelling place, but is to provide temporary living or sleeping quarters for recreational, camping or travel use.

Recreational vehicle park (*RV park*) or *caravan park* is a place where people with recreational vehicles can stay overnight, or longer, in allotted spaces. Tiny homes on trailers may be allowed.

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 the nearest exterior face of building wall.

Shipping container means a detachable prefabricated reusable container intended for transporting cargo and commonly called cargo containers, storage containers, transport containers, marine cargo containers, and Conex boxes. They are self-contained without axles or wheels. Semi-truck trailers, sheds, and storage sheds shall not be considered a shipping container.

Short-term rental means rental of all of a furnished residential dwelling (e.g., historically used or intended for use as a single-family residence which includes a kitchen, sanitation facilities, bedrooms, etc.) for less than 30 days. This definition of short-term rentals excludes hotels, motels, boarding houses and bed and breakfasts.

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.

Sight distance triangle means, on corner lots and where streets, alleys or driveways intersect each other, a triangle measured from the point of intersection of the flow lines abutting streets and/or alleys and driveways a certain distance along each such flow line.

Sober living home means a single-family dwelling that provides housing accommodation for individuals with a primary diagnosis of a substance use disorder that are protected by the Fair Housing Act Amendments, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Colorado.

Special event means any event where at least fifty (50) people are brought together to watch or participate. Examples of special events include summer festivals, concerts, races, national celebrations, sporting competitions, exhibitions, tractor pulls and demolition derbies.

Storage means a site or building used for the keeping, in an outdoor area or building, of any goods, equipment, personal property, material, merchandise, or vehicles in the same place that is not for sale. The total storage is of a site or building shall be subordinate to the primary use and shall not be located in the front of buildings in commercial zones unless approved by a “warehouse” development permit.

Storage unit or warehouse means a building or site that uses more than 50% of the site or building area for storage.

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

Street frontage means that portion of a lot abutting a street and situated between lot lines intersecting such street; also referred to as *lot frontage.*

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 which requires a building permit. For the purpose of this chapter, the following shall not be considered structural alterations:

(1) Attachment of a new front where structural supports are not changed;

(2) Addition of a fire escape where structural supports are not changed;

(3) New windows where lintels and support walls are not materially changed; or

(4) 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 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 the term "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. Subdivision is subject to rules and regulation contained in Chapter 22 Subdivision of the City municipal code.

Therapeutic massage means manipulation by a state-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 or *townhouse subdivision* means a building consisting of fee simple estates to individual units having common vertical walls, together with fee simple title to the land on which each unit is built and any yard and parking space appurtenant to said unit; and any easements for ingress and egress and for installation, replacement, repair and maintenance of utilities appurtenant to a unit. No townhouse or townhouse project shall have common horizontal walls. No more than one primary structure or more than one single parcel may be part of a townhouse subdivision.

Transportation unit means any container of any type previously used in whole or in part on the public highways, roadways, roads, railways, waterways or other travelways to transport goods or products.

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 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.

Used or *occupied* includes the term "intended, designed or arranged to be used or occupied."

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 30-80 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.

Vacation rental means a property with a dwelling unit or guest house intended for permanent occupancy that is occupied by any person other than the primary owner for transient use (short-term rental); or is otherwise occupied or utilized on a transient basis. *Vacation rental* does not include a bed and breakfast inn permitted and operated in accordance with this Code, or occasional home exchanges.

Warehouse means a place adapted to the reception and storage of goods. For purposes of this chapter, the term "warehouse" 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 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 building occupying one 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.

(Code 2000, § 16-1-10; Ord. No. 839, § 1800, 1986; Ord. No. 890, § 1, 1991; Ord. No. 907, 1992; Ord. No. 915, §§ 2, 3, 1993; Ord. No. 921, 1993; Ord. No. 947, 1995; Ord. No. 972, §§ 3—5, 1996; Ord. No. 1004, § 4, 1999; Ord. No. 1022, § 1, 2000; Ord. No. 1050, 2002; Ord. No. 1088, § 3, 2006; Ord. No. 1053, §§ 1—3, 2010; Ord. No. 1165, §§ 2—4, 2010)

Secs. 30-7- 30-10. Reserved.

ARTICLE II. ADMINSTRATION, DEVELOPMENT APPLICATIONS, AMENDMENTS, AND APPEALS

Sec. 30-11. Fees.

(a) Every Zoning and development application shall be submitted with the appropriate fees and charges for the type of application being submitted. The amount of such fees and charges shall be established by a resolution of the city council, as may be amended from time to time, and available for review by the public at the City Complex during normal business hours.

Sec. 30-12. Zoning Development Applications.

(a) All applicants subject to these zoning regulations shall complete an application for zoning review on an application provided by the City. For permitted uses, a building permit pursuant to Chapter 6 of the code, may be processed simultaneously.

(b) Once an application for zoning review has been filed with the City, a pre-application conference with the City will be scheduled within 15 days of submittal if a public hearing is required.

(c) At the pre-application conference, the applicant and the City Building Department will discuss the proposed change, development, and/or review the appropriate land use review criteria or procedures.

(d) Once the appropriate completed application is received, the City Building Department shall commence review and notify the applicant of completeness within 15 days of submittal. Staff will review the development request and provide the applicant the necessary procedures and the required materials for the public hearing.

1. Complete applications will be scheduled for a hearing before city council within 45 days of City staff's determination of completeness.

2. Additional review time will be required for applications requiring professional review.

3. If the application is determined to be incomplete, it will not be scheduled for a hearing before Planning and Zoning Commission or city council or until it is complete.

(e) All projects that provide 50% or more affordable housing units shall be expedited and a decision rendered within 90 days of a complete application being received by the City pursuant to this Article. Any administrative permit application, site plan, variance, conditional use, or other zoning permit for affordable housing is eligible for expedited review. This does not include rezoning, PUDs, subdivisions, or other applications requiring ordinances of the city council. An applicant or City may request an extension pursuant to C.R.S. 29-32-105(2) (b) and (c). Upon a final decision being rendered, if applicable, the City shall issue a building permit once final building plans are approved.

(f) Development plan. Applicants applying for a zoning application shall be prepared to provide the following information to the City to allow the Staff to make a determination of the appropriate zoning procedures. The following list is not inclusive or exclusive of requirements for a development application.

1. Completed application and fee as required by the City.

2. Survey.

3. Site plan.

4. Parking plan, traffic studies, or CDOT access permit if warranted.

5. Utility and grading plan.

6. Landscape plan.

7. Architectural building elevations.

8. Lighting plan.

9. Historical characteristics.

10. A vicinity map.

11. A narrative describing the proposal and how the development meets the required zoning requirements of this chapter.

11. Other details as requested pursuant to the City review.

Sec. 30-13. Public Notice.

(a) For all actions of the City described in this Chapter requiring public hearings, the City shall provide public notice and shall demonstrate that such public notice conforms to the following requirements. The Applicant is responsible for providing the City with proper legal descriptions, proof of ownership, deeds, or other information as required to properly notice the application.

(b) Except as otherwise required by law, notice shall be sent by first class mail to all property owners within two hundred feet (200') of the property in question at least fifteen (15) days in advance of the public hearing.

(c) Except as otherwise required by law, notice of the hearing shall be published in a newspaper of general circulation at least fifteen (15) days in advance of the hearing. If no such newspaper exists, then a newspaper of general circulation in an adjoining county,

(d) Pursuant to C.R.S Section 24-65.5-103, as may be amended, not less than thirty (30) days before the date scheduled for the first public hearing for a subdivision subject to Chapter 22 or development application specified in the statute, the applicant shall provide notice to mineral estate owners. Such notice shall be by certified mail, return receipt requested.

(e) Notice shall be posted on the subject property at least fifteen (15) days in advance of the hearing. The dimensions of the sign shall be at least eleven (11) inches by seventeen (17) inches, and the materials to which the notice form is affixed shall be upright, sturdy and waterproof or shall have a waterproof covering.

(f) All notices shall include:

(1) A statement of the nature of the matter being considered;

(2) The time, date and place of the public hearing (public hearings of the city council dates may be amended by the city clerk based on meeting availability from the original notice. If the date and time are amended no additional noticing shall be required to neighboring property owners or newspaper, however the public hearing shall be noticed as required for council meetings.);

(3) The agency or office and phone number where further information may be obtained; and

(4) A legal description, and/or address if one has been assigned, of the subject property.

Sec. 30-14. Amendments.

The text of this Zoning Code may be amended, supplemented or repealed pursuant to the procedures and standards of this Article.

(a) Initiation of Text or Map Amendment. An amendment to the text of this Land Use Code may be initiated by the city council, the planning commission, the city administrator, a resident of the City, an owner of a business within the City, or any person who holds a recognized interest in real property within the City.

(b) Procedure for text or Map amendments. An applicant requesting an amendment shall follow the stages of the process outlined below:

(1) Preapplication Conference. Attendance at a preapplication conference is optional, but recommended, for a private applicant intending to submit an application for an amendment to the text of this Land Use Code or the boundaries of zoning districts, as depicted on the Official Zoning Map.

(2) Submittal of Application. The applicant shall submit a complete text amendment application to the Administrator which contains the precise amended wording. The city administrator or building department shall be responsible for submitting the application materials for an amendment initiated by the city council or planning and zoning commission.

(3) Review Procedures. The city administrator or building department shall review the application to determine whether it is complete. The city administrator or building department shall forward a report to the planning commission, which report summarizes the application's compliance with the applicable review standards protecting the City's health safety, and welfare, conformance with the City comprehensive plan, and other applicable provisions of this Chapter. The technical comments and professional recommendations of other agencies and organizations may be solicited in drafting the report.

(4) Public Notice and Action by Commission. The planning and zoning commission shall hold a public hearing to review the conformance of the application with all applicable provisions of this Chapter. Public notice shall be provided as specified in Section 30-13 of this Chapter. The commission shall make a recommendation that the city council approve, approve with conditions or deny the application, or shall remand the application to the applicant with instructions for modification or additional information or action.

(5) Public notice and action by council. The city council shall consider the recommendations of the planning commission at a public hearing. Public notice that the city council will conduct a hearing to consider the recommendations of the planning commission shall be provided as specified in Section 30-13 of this Chapter. The city council shall, by ordinance, approve or deny the proposed amendment or shall remand it to the applicant with instructions for modification or additional information or action.

(6) Actions Following Approval. Upon approval of the amendment and the filing and, if applicable, recordation of any documents required by the approval, the administrator shall cause the amended text of this Chapter to be officially codified. In the event of a Map Amendment, the administrator shall cause the Official Zoning Map to be certified per Section 31-12 below.

Sec. 30-15. Protest.

If a protest against such amendment of Section 30-14 is filled in accordance with Section 30-19 of this chapter is filed in the office of the city clerk within 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 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-quarters of all the voting members of the city council.

Sec. 30-16. 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 30-14 of the Lamar, Colorado Municipal Code."

(c) If, in accordance with the provisions of this chapter, and C.R.S. § 31-23-301 et seq., 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 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 Chapter 1 Section 1-21.

(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.

Sec. 30-17. Interpretation of district boundaries.

(a) 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 shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; 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) of this section 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) of this section, 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 from which this chapter is derived, 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 50 feet beyond the district line into the remaining portion of the lot.

Sec. 30-18. Application of district regulations.

The regulations set by this chapter Article III Zoning 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 from which this chapter is derived 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 from which this chapter is derived 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.

Sec. 30-19. Appeals

Appeal. An order, decision or interpretation rendered by the administrator, any commission or any board may be appealed to the designated body outlined in Table 16-A. Decisions by the board of adjustment and appeals, and city council shall be final and may not be further appealed, subject only to judicial review by a court with jurisdiction.

TABLE 16-A
Appealing Body from Specific Orders, Decisions or Interpretations

Decision appealed From:	Type of land development application	Decision appealed to:
Administrator or his or her designee	Interpretation Zoning Development Application Reuse, change in use or further development Sign permits	Board of adjustment and appeals
Board of adjustment and appeals	Variance	Court system
Building official	Interpretation of codes enforced by the Building Official	Board of adjustment and appeals*
City council	Amendment to official zoning map or text of Code (Protest Sec. 30-15) Annexation Subdivision or PUD Designation of a historic district or landmark Notice of violation	Court system
Fire chief	Interpretation of codes enforced by the Fire Chief	Board of adjustment and appeals*
Historic preservation advisory board	Certificate of approval Landmark designation recommendation	City council
Planning and zoning commission	Conditional use permit or any application in which the Planning and zoning commission is the final decision	City council
*Refer to Chapter 6. Building Regulations.		

(a) Appeal contents. The appeal shall be in the form of a written letter of appeal delivered or postmarked to the administrator within fifteen (15) days of the date the interpretation or decision was first postmarked or the date of the public hearing of final decision. Such notice shall identify the date and nature of the order, decision or interpretation at issue and set forth in plain and concise language the:

(1) Facts and reasons. The facts and reasons for the appeal, including any relevant citation to any rule, regulation or Code section relied upon

(2) Copy. A copy of the order, decision or interpretation being appealed if the same was issued in writing.

(3) Relief Requested. A statement as to the relief that is being requested on appeal.

(b) Actions following receipt of appeal. Upon receipt of the appeal, the administrator shall schedule the appeal for a regular or special meeting of the appropriate body within sixty (60) days of the filing of the notice to appeal.

(c) Notice. Written notice of the time, date and location of the hearing shall be sent by regular mail to the appellant not less than fifteen (15) days prior to the hearing. In cases where a decision rendered during a public hearing is being appealed, the notice shall be published in accordance o the city's council's public hearing requirements.

(d) Appeal hearing.

(1) Evidence. Formal Rules of Evidence shall not be followed during hearings. The chairman shall have the power to decide what evidence is material to the appeal. Written documents presented at the hearing shall be made part of the record, and public testimony shall be taken if the appeal required public notice. The burden of persuasion on appeal shall rest with the appellant.

(2) Basis of a decision. Review of the land use decision being appealed shall be limited to the record established before and relied upon by the designated decision-making body. An appealing body shall not have the authority to override the provisions of this Land Use Code. Any decision shall include a basis for the decision and cite specific sections of this Code.

(3) Minutes. Approved minutes from the commission or board rendering the final decision shall be provided with forty-five (45) days of a filed appeal. The minutes of the meeting of record of the decision shall be entered into the record of the appeal hearing.

4) Notice of decision. The appropriate appealing body shall hear all relevant evidence, and within a reasonable time and in no event more than fifteen (15) days thereafter, shall render its decision. The appealing body may reverse, modify or confirm the order, decision or interpretation. All decisions on appeal shall be reduced to writing, contain a concise listing of facts and reasons supporting the same and shall be promptly mailed by regular mail to the appellant.

Secs. 30-20-30-30. Reserved.

ARTICLE III. ZONE DISTRICT REGULATIONS

Sec. 30-31. Purpose of this Article.

(a) This Article specifies the purpose and intent of zone districts that regulate the type and intensity of land uses within the City. The zone districts have been organized into broad district classifications, these being residential, mixed-use, commercial, and industrial. The incorporated area of the City is divided into zone districts to achieve compatibility of uses and character within each zone district, guided by the vision of the Lamar Comprehensive Plan and to achieve the purposes of this Zoning *Code*.

Sec. 30-32. Zone districts established, intent and purpose.

To carry out the purpose and provisions of this article, the City is divided into the following zone districts:

(a) A-L Agricultural 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.

(b) E-A Education Agricultural District- The E-A Education Agricultural District is intended for certain institutional, recreational, parks and open space, and educational purposes to allow limited agriculture, including livestock for display and educational purposes.

(c) O-E Open Estates 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.

(d) R-1 Residence District- The R-1 Residence District is intended to be primarily a single-family residential district with uses customarily incidental thereto permitted.

(e) R-2 Residence District- The R-2 Residence District is intended to be for single-family, two-unit, three-unit and four-unit residential structures with uses customarily incidental thereto permitted.

(f) R-3 Residence District- The R-3 Residence District is intended to be for single-family, two-unit, three-unit, four-family and multifamily unit residential structures with uses customarily incidental thereto permitted.

(g) C-1 Central Business District- The C-1 Central Business District is intended to be a commercial district allowing those uses which are compatible with pedestrian traffic.

(h) C-2 Commercial District- The C-2 Commercial District is intended to be a vehicle-related commercial district permitting those uses which are compatible with automobile traffic.

(i) C-3 Highway Service 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.

(j) I-1 Industrial District- The I-1 Industrial District is intended for the purpose of allowing certain industrial uses which do not require intensive land coverage, generate large volumes of vehicular traffic; and create obnoxious sounds, glare, dust or odor. Height and land coverage are controlled to ensure compatibility with adjoining uses. The volume of sound generated by this use shall not inherently or recurrently exceed 80 decibels at any point of any boundary line of the zone lot on which the use is located. 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. 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.

(k) I-2 Industrial District- 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. The volume of sound generated by this use shall not inherently or recurrently exceed 100 decibels at any point of any boundary line of the zone lot on which the use is located. 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. 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.

(l) I-P Industrial Park 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.

(m) M-H Mobile Home District- The M-H Mobile Home District is intended specifically for areas where mobile homes and mobile home courts or parks are desired.

Sec. 30-33. Zone district dimensional standards.

(a) Tables 30 B &C, Schedule of Dimensional Standards, specifies the dimensional standards applicable to development in the City's residential and commercial, business and industrial zone districts. All residential and nonresidential development shall meet these standards, unless other standards are specified for a use Sec. 30-39 or by a zone district overlay in this Zoning Article IV.

TABLE 30 - B Schedule of Dimensional Standards - Residential						
Dimensional Standard	**A-L**	**O-E**	**R-1**	**R-2**	**R-3**	**M-H**
Min. lot size (sq. ft.)	2 ac	21,780	8,000	7,000	7,000	1 ac
Density (Lot s.f./Min. lot area per dwelling unit)	2 ac	21,780	8,000	2,000	1,500	2,000
Max. lot coverage	10%	30%	40%	45%	50%	60%
Min lot size (sq. ft.) - attached units	N/A	N/A	N/A	2,500	2,000	N/A
Min. lot frontage	50’	50'	70'	50'	50’	25'
Min. lot frontage – attached units	N/A	N/A	N/A	75'	75'	N/A
Min. setback front any building	50'	30'	30'	30'	30'	20'
Min. setback from side lot line for a primary bldg.	15'	10'	7'	5'	5’	10'
Min. setback rear principal bldg.	25'	10'	10'	10'	10'	10'
Min. setback from side lot line for a detached accessory bldg.	15'	10'	5’	5’	5’	5'
Min. setback from rear lot line: accessory bldg.	25'	10'	10'	5’	5’	5'
Corner lot side setback*	15’	15'	15’	15’	15'	15'
Max. building height for a primary bldg.	45'	35'	35’	35’	35’	20'
Max. building height for a detached accessory bldg.	75'****	25'	25’	25’	25’	25'
Notes: * Corner lots may reduce the side setback to 7' outside of clear sight triangle ** A covered porch may encroach into the front yard setback by twenty-five percent (25%). *** Eaves may encroach an additional 18” into setbacks.						

Table 30-C Schedule of Dimensional Standards - Commercial and Industrial						
Dimensional Standard	**C-1***	**C-2***	**C-3**	**I-1**	**I-2**	**I-P***
Min. lot size (sq. ft.)	N/A	N/A	15,000	N/A	N/A	10 ac
Max. lot coverage	N/A	N/A	60%	33%	25%	80%
Min. lot frontage	N/A	25'	150'	50'	50’	60’
Min. landscape area	10%**	20%**	20%	5%	5%	5%
Min. setback front any building	N/A	15'	30'	20'	20'	30'
Min. setback from side lot line for a primary bldg.	N/A	10'	10'	5'	5'	15’
Min. setback rear principal bldg.	N/A	15'	30'	10'	5'	15’
Min. setback from side lot line for a detached accessory bldg.	N/A	5’	15'	5'	5’	5’
Min. setback from rear lot line: accessory bldg.	N/A	5’	30'	10'	5’	10’
Corner lot side setback	N/A	15’	30'	15'	15'	15'
Max. building height for a primary bldg.	45'	45’	45’	45'	45’	45’
Max. building height for a detached accessory bldg.	30'	25'	25'	25'	45’	45’
Notes: *Existing structures are not required to meet off-street parking requirements. New structures and additions shall meet off-street parking requirements.						
** If a property does not utilize the zero setback allowance, the minimum landscape area shall be 10%. ** If the property adjoins a residential zone district, setbacks on the side and rear lot line shall be the						

Sec. 30-34. Principal and accessory uses.

(a) The primary use of a lot is referred to as a “principal use” which may be a land use or a structure. Only one (1) principal use per lot is allowed in any zone district except for commercial and light industrial zone districts where residential and nonresidential uses and where different nonresidential uses may be allowed in the same building as specified in the zone district regulations. Only one (1) principal building and its customary accessory buildings may be erected on any single lot in a residential zone district unless approved through a Conditional Use.

(b) A structure or land use that is customary, incidental, and accessory to the principal use is referred to as an accessory use. Accessory uses must be located on the same lot as the principal use. A building for a garage or storage, a home occupation, fences, hedges, and walls are permitted accessory uses in any zone district, subject to any limitations listed in this Chapter.

Sec. 30-35. Conditional uses.

(a) General. Conditional uses are those land uses which are generally compatible with the permitted uses in a zone district, but which require site-specific review of their location, design, intensity, density, configuration

and operating characteristics, and which may require the imposition of appropriate conditions, in order to ensure compatibility of the use at a particular location and mitigate its potentially adverse impacts. It is the intent of these regulations to provide a review of conditional uses so that the community is assured that any proposed conditional uses are suitable for the proposed location and are compatible with the surrounding land uses. Conditional uses are generally appurtenant to the property supporting the use; however, conditional use permits may also be made specific to the permit holder if appropriate under the circumstances.

(1) When allowed. Conditional uses may be permitted in designated zone districts upon approval of the Planning and Zoning Commission as provided in these regulations.

(2) Application and review. All applications for conditional uses will be reviewed according to the procedures set forth in Section 30-12.

(b) Review standards. An application for conditional use approval shall comply with the following standards. The planning and zoning commission shall be the final decision-making authority on conditional use applications. Appeals by applicants or citizens shall be filed in accordance with Section 30-19. In addition, an application for a conditional use must demonstrate compliance with any review standards particular to that use specified in Tables D & E.

(1) Consistency with comprehensive plan. The use shall be consistent with the City's Comprehensive Plan.

(2) Conformance to code. The use shall conform to all other applicable provisions of this Chapter, including, but not limited to:

a. Zoning district standards. The purpose of the zone district in which it is located, the dimensional standards of that zone district and any standards applicable to the particular use, all as specified in Section 30-39.

b. Site development standards. The parking, landscaping, sign and improvements standards.

(c) Use appropriate and compatible. The use shall be appropriate to its proposed location and be compatible with the character of neighboring uses, or enhance the mixture of complementary uses and activities in the immediate vicinity.

(d) Traffic. The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking or loading problems. Necessary mitigating measures shall be proposed by the applicant.

(e) Nuisance. The operating characteristics of the use shall not create a nuisance, and the impacts of the use on surrounding properties shall be minimized with respect to noise, odors, vibrations, glare and similar conditions.

(f) Facilities. There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies which the use would cause.

(g) Environment. The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.

Sec. 30-36. Expiration, reconsideration, or appeal of a conditional use permit.

(a) Conditional use permit approval shall be valid for one (1) year from the date of approval or within a longer period determined by the planning and zoning commission, as applicable, for uses which involve phasing, but in no event longer than five (5) years from the date of approval. The conditional use approval may contain conditions as deemed appropriate by planning and zoning commission in approving the permit. Within the one-year period, or other approved period, the permit holder must either begin construction or establish the

land use authorized by the conditional use permit, including any conditions attached to the conditional use approval. Failure to start construction or establish such use within the one-year or other applicable time period shall result in automatic expiration of the conditional use permit. Once a conditional use is established, any discontinuance of the use for a period of one (1) year, for any reason, shall result in automatic expiration of the conditional use permit, unless otherwise provided in the permit. The approval of a conditional use may or may not identify an initial term for the conditional use. Continuous of the conditional use permit shall automatically renew yearly, unless the planning and zoning commission places time provisions conditions, provided the use continues to operate in accordance with the code. Upon expiration of the term, if the permit is so limited, the conditional use permit shall automatically expire.

(b) Prior to expiration of the initial term or an extended term, the applicant may submit a request to the administrator to extend the conditional use approval, which request shall specify the reasons why the use should be permitted to continue. The approval shall be deemed extended until the administrator or planning commission, as applicable, has acted upon the request for extension. The planning and zoning commission shall be authorized to deny an extension or extend the approval and to impose additional conditions, if necessary.

(c) If an applicant, owner, tenant, or business receives a notice of violation or formal complaint of their conditional use permit, they shall have thirty (30) days to come into compliance with the notice. A second notice of violation of a conditional use permit shall result in a public hearing before the planning and zoning commission. At this public hearing, the planning and zoning commission shall review the notice of violation and information provided within the complaint. The planning and zoning commission shall have the authority to set additional conditions for approval or deny and revoke the conditional use permit.

(d) If an applicant, or citizen wishes to appeal the final decision of the planning and zoning commission on a conditional use permit, an appeal in writing must be filed within fifteen (15) days of the date of the public hearing when the final decision was render. Appeals will be scheduled to be heard by the City Council and take into consideration the original conditional use application materials, additional information contained in writing in the application for appeal, public comments entered into the official record of the public hearing, and a transcript of the minutes from the public hearing from the planning and zoning commission meeting. The planning and zoning commission shall be required to provide approved minutes for the appeal hearing within forty five (45) days of an appeal being filed to be entered into the record of the appeal proceedings at the City Council appeal hearing. The date and time of the hearing shall be determined based on the availability of the City Council and shall not be delayed for more than 60 days from the date of the filed appeal.

Sec. 30-37. Uses not itemized.

(a) Uses not specifically described in a particular zone district may be considered a conditional use in that zone district if the Administrator determines, in writing, that the proposed use is substantially similar to a use specifically described in that particular zone district.

Sec. 30-38. Schedule of uses.

(a) Uses. Tables 30 D & E, Schedule of Uses, specify the use standards applicable to development in the City's residential and commercial, business and industrial zone districts. All residential and nonresidential development shall meet these standards, unless other standards are specified for a use or by a zone district in this Zoning Code Section 30-39.

(1) Permitted Uses. "P" indicates uses which are permitted. A Zoning Development Application approval pursuant to Section 30-12 is required by the Administrator if applicable.

(2) Conditional uses. "C" indicates uses which are allowed, subject to conditional use review. The planning commission shall conduct a public hearing to determine whether the conditional use complies with all standards and requirements of this chapter. A Zoning Development Application approval pursuant to Section 30-12 is required by the planning commission

(3) Not permitted. "N" indicated uses which are prohibited.

TABLE 30-D
Residential Schedule of Uses

N = Not Permitted **P = Permitted** **C = Conditional Use**	**A-L**	**O-E**	**R-1**	**R-2**	**R-3**	**M-H**	**E-A**	**Standards[1]**
Residential Uses								
Accessory buildings and structures.	P	C	P	P	P	P	P	
Single-family dwelling units	P	P	P	P	P	P	N	
Accessory dwelling units	P	N	P	P	P	C	N	30-39 (b)
Duplex dwelling units	N	N	N	P	P	C	N	
Three or four family-structures	N	N	N	P	P	C	N	
Multi-family/apartment building	N	N	N	C	P	C	N	
Townhome (3 or more)	N	N	N	P	P	N	N	
Mobile home single	C	N	N	C	N	P	N	30-39 (n)
Mobile home park	N	N	N	N	N	C	N	30-39 (o)
Recreational vehicles park or campground	N	N	N	N	C	C	N	30-39 (d)
Residential Business Uses	**A-L**	**O-E**	**R-1**	**R-2**	**R-3**	**M-H**	**E-A**	**Standards[1]**
Short-term rentals	P	P	P	P	P	P	N	30-39 (c)
Adult day care	C	C	C	C	C	C	N	30-39 (e)
Day care, small	C	C	C	C	C	C	N	30-39 (e)
Day care, large	C	C	C	C	C	C	N	30-39 (e)
Home occupations	P	P	P	P	P	P	N	30-39 (f)
Home businesses	C	C	C	C	C	C	N	30-39 (f)
Correctional facilities	C	N	N	N	N	N	N	30-39 (l)
Public/Institutional Uses	**A-L**	**O-E**	**R-1**	**R-2**	**R-3**	**M-H**	**E-A**	**Standards[1]**
Bus stations/stops	P	P	P	P	P	P	P	
Cemetery	P	P	N	N	N	N	N	
Churches, parish homes and religious education buildings	P	P	P	P	P	N	N	
Clubs operated by and for their members	N	N	N	N	C	N	N	
Community buildings	N	C	C	C	C	C	C	
Government administrative facilities/emergency services	C	C	C	C	C	N	P	
Grocery stores	N	N	N	C	C	N	N	
Hospitals	C	N	C	C	C	N	N	30-39(a)
Nursing homes	C	C	C	P	P	N	N	
Parks	P	P	P	P	P	P	P	
Public parking facilities	P	P	P	P	P	P	P	
Recreation facilities	C	N	N	N	N	N	P	
Schools/Higher Learning	P	P	P	P	P	P	P	
Uses not listed	C	C	C	C	C	C	C	

Notes:

[1] The standards referenced herein are in addition to all other applicable standards of this Zoning Code.

[2] Provided that State Health Code space and sanitation requirements are met.

[3] An existing dwelling can be modified or rebuilt as a matter of right.

TABLE 30-E Commercial and Industrial Schedule of Uses							
N = Not Permitted P = Permitted C = Conditional Use	**C-1**	**C-2**	**C-3**	**I-1**	**I-2**	**I-P**	**Standards[1]**
Residential Uses							
Existing residential dwellings	P	P	P	P	N	N	
Mixed-use	P	P	N	N	N	N	30-39 (i)
Public/Institutional Uses	**C-1**	**C-2**	**C-3**	**I-1**	**I-2**	**I-P**	**Standards[1]**
Bus stations/stops	P	P	P	P	P	P	
Churches, parish homes and religious education buildings	C	C	C	C	N	N	
Clubs operated by and for their members	C	C	C	N	N	N	
Community buildings	C	C	C	C	N	C	
Government administrative facilities/emergency services	P	P	P	P	P	C	
Group homes/treatment centers/temporary living centers	C	C	N	P	N	N	30-39 (g)
Hospitals	C	C	C	N	N	N	30-39 (a)
Day nursey, small, large, and adult	C	C	C	C	C	N	30-39 (e)
Parks	P	P	P	P	P	P	
Public parking facilities	P	P	P	P	P	P	
Recreation facilities	C	C	C	C	C	C	
Commercial, Personal Service and Office Uses	**C-1**	**C-2**	**C-3**	**I-1**	**I-2**	**I-P**	**Standards[1]**
Campground/RV park	N	C	C	C	N	N	30-39 (d)
Commercial lodging	P	P	P	N	N	N	
Commercial parking lots and garages	P	P	P	P	P	P	
Drive-in facilities	N	P	P	C	N	N	30-39 (h)
Eating and drinking establishments	P	P	P	C	C	N	
Outdoor amusement establishment	N	P	C	N	N	N	
Personal services	P	P	P	P	C	C	
Professional offices	P	P	P	P	P	P	
Retail sales and rental establishments	P	P	P	P	P	P	
Temporary commercial activities (food trucks or other mobile retail)	P	P	P	C	C	C	30-39 (j)
Commercial General Services	**C-1**	**C-2**	**C-3**	**I-1**	**I-2**	**I-P**	**Standards[1]**
Automobile sales, service and repairs	N	P	P	P	N	N	
Gasoline service stations and car washes	N	P	P	P	N	N	
Grocery Stores	N	P	P	P	N	N	
Mobile home, car sales, and recreational vehicle sales and services	N	P	P	C	N	N	
Mortuaries	C	P	C	C	N	N	
Veterinary clinics	P	P	P	P	P	C	
Breweries, craft beverage, distilleries	P	P	P	P	P	N	
Marijuna-retail, infuse product manufacturing, medical, cultivation, storage	N	N	N	N	N	N	30-39 (p)
Medical marijuna-cultivation by patient or caregiver	N	N	N	N	N	N	30-39 (q)
CO creative industries	P	P	P	P	P	P	
Industrial Uses	**C-1**	**C-2**	**C-3**	**I-1**	**I-2**	**I-P**	**Standards[1]**
Light industrial	N	N	N	P	P	P	
Heavy industrial	N	N	N	C	P	P	
Communication facility	N	N	P	C	C	C	30-39 (k)
Storage yards	N	N	N	C	C	C	
Warehouses, enclosed storage	N	C	C	P	P	C	
Wholesale businesses and truck terminals	C	C	C	P	P	P	
Bulk fuel storage facilities and wholesale sales of fuels	N	N	N	P	C	P	
Junkyards, salvage yards or automobile wrecking yards	N	N	N	C	C	N	30-39 (m)
Uses not listed are conditional	C	C	C	C	C	C	

Notes:

[1] The standards referenced herein are in addition to all other applicable standards of this Zoning Code.

[2] Provided that State Health Code space and sanitation requirements are met.

[3] An existing dwelling can be modified or rebuilt as a matter of right.

Uses not listed are not permitted. No Residential uses allowed in I-2 that are not listed.

Sec. 30-39. Review standards applicable to particular uses.

Additional use standards in zone districts. Certain uses are important to the character and functions of the City, but may not be appropriate in all circumstances within a particular zone district. Such uses cannot be judged solely by standards common to all uses in the zone district. These uses also require additional standards by which their location, site plan, operating characteristics and intensity can be reviewed. Those uses which require such additional standards are identified in the "Standards" column of Table 30 D&E, Schedule of Uses. The standards for each of these uses follow below.

(a) Hospital.

(1) 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.

(2) Parking and access. Required parking shall be provided on the site for all buildings and uses on the site. Access should be consolidated to reduce curb cuts and shall be provided through alleys where available.

(3) Provision of adequate services. Each principal structure shall have its own municipal services, including water and sewer, in accordance with Municipal Utilities, of this Code.

(b) Accessory dwelling unit.

(1) Location. An accessory dwelling unit may be located within or attached to the primary dwelling unit, or may be detached from the primary dwelling unit if located in or above a garage or lawful accessory building. Only one (1) accessory dwelling unit is allowed per lot on a permanent foundation and must include a kitchen, bathroom, and sleeping area.

(2) Square footage. An accessory dwelling unit shall not exceed nine hundred (900) square feet of habitable floor area. Habitable floor area means the total floor area contained within the inside walls of a structure with at least 7.0' of headroom. Habitable floor area does not include unfinished attics, areas used for access such as stairs and covered porches, garage space used for the parking of cars or storage, unfinished basements and utility rooms less than 50 sq. ft. All other areas of an accessory dwelling unit shall count towards habitable floor area.

(3) Parking. There shall be one (1) additional off-street parking space provided for the accessory dwelling unit.

(4) Occupancy. The accessory dwelling unit shall not be condominiumized or sold and shall not be rented to visitors for periods of less than thirty (30) days. A maximum of two (2) related or unrelated people including children may inhabit an accessory dwelling unit.

(5) Alley access. All ADUs must have access to an alley or public right-of-way.

(6) Utilities. Utility connections and meters for water, electric, gas, and sewer shall be determined by the City or the provider at its sole discretion.

(c) Short-term rentals.

(1) All short-term rentals must have a business license filed with the City and collect and remit all applicable local and state taxes.

(2) Owner or property manager must be able to respond to any neighbor complaints within 1 hour.

(3) No short-term rental shall not create undo neighborhood nuisances such as excessive noise, outdoor lighting, trash, or parking.

(d) Recreational vehicle park or campground. A recreational vehicle park shall comply with the standards of the underlying zone district, except as otherwise specified herein.

(1) Minimum park size. A recreational vehicle park shall be developed and operated on a site of at least two (2) acres.

(2) Minimum space size. Each recreational vehicle unit space shall contain a surfaced area of not less than ten (10) feet by thirty (30) feet. Surfacing shall consist of asphalt, concrete or not less than four (4) inches of gravel, with edging required. A recreational vehicle shall be parked in its entirety on the surfaced area.

(3) Minimum setbacks for recreational vehicles. The minimum setback requirements for all permanent structures and recreation vehicles shall be as follows:

a. Perimeter. A minimum of fifteen (15) feet from all boundaries of the park.

b. Separation. Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings or carports for purposes of this separation requirement shall be considered to be part of the recreational vehicle.

(4) Recreation area.

a. Minimum standard. A usable area amounting to not less than ten percent (10%) of the gross area of the park shall be designated and improved by the developer for recreation use. The recreation area shall not include any area designated as a roadway, unit space, parking area or storage area, and shall be conveniently located and free from all natural hazards. The recreation area shall count toward the minimum landscape area standard of the underlying zone district.

b. Assurances. As part of the application for the recreational vehicle park, the developer shall submit assurances acceptable to the City that the recreation area will be improved in a timely way so as to be suitable for active recreation use in accordance with the approved plan and adequately maintained for as long as the park is in existence.

(5) Landscaping. Landscaping shall be required for an area amounting to not less than fifteen percent (15%) of the gross area of the park. The landscape area may include the recreation area and common landscape areas and shall include a landscape area provided within the required perimeter setback to effectively screen or buffer the park from surrounding properties. The required landscape area shall comply with Tables 30- B&C of this Chapter.

(6) Utilities installation and connection.

a. Code compliance. Utility installations and connection taps shall be installed to comply with all state and local regulations and codes. Electrical installations shall comply with all state and local electrical codes.

b. Underground. All utilities, except major power transmission lines, shall be placed underground.

c. Lighting. Adequate lighting shall be provided in compliance with the requirements of the Lamar Light and Power.

(7) Fire protection. Every recreational vehicle park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located within the park as prescribed by the fire marshal, with reference to the City's fire code. Fire hydrants shall be installed to comply with City standards and fire codes.

(8) Roadways and walkways.

a. Private. Internal roadways and walkways within the recreational vehicle park shall be privately owned, built and maintained, and shall be designed for safe access to all spaces, parking areas, service buildings and recreation areas.

b. Entrance. The entrance to the recreational vehicle park shall be from a public road. The entrance shall not be located closer than fifty (50) feet to any public street intersection, shall be a minimum of thirty (30) feet in width, and shall be designed to comply with minimum American Association of State Highway and Transportation Officials (AASHTO) standards.

(9) Location of unit.

a. Obstruction prohibited. No recreational vehicle shall be parked so that any part of such unit will obstruct any roadway or walkway in a park.

b. Locating on approved space. No unit shall be occupied in a park unless the unit is located on an approved unit space.

(10) Dump stations. Dump stations may be installed, in accordance with City specifications.

(11) Refuse and garbage. Every four (4) recreational vehicle spaces shall have provided one (1) container for trash and garbage and a rack or holder at a permanent location for the same. Trash and garbage containers shall be located within one hundred (100) feet of any unit space they serve.

(12) Service building. A service building including a restroom shall be installed in all recreational vehicle parks. The service building shall also meet the following standards:

a. Private compartments. Each water closet, bath or shower shall be in a private compartment and shall meet the requirements of the City's plumbing code.

b. Sound-retardant wall. A sound-retardant wall shall separate the toilet facilities for each sex when provided in a single building.

c. Utility sink. A minimum of one (1) utility sink shall also be provided for disposal of liquid wastes and for clean-up and maintenance of the service building.

d. Construction. The service building shall be of permanent construction and be provided with adequate light, heat and positive ventilation in shower and bathing areas. Interior construction of the service building shall use cleanable, moisture resistant materials on walls, ceilings and floors, and use slip-resistant materials on floors.

e. Openings screened. All windows, doors or other openings shall be screened to keep out insects.

f. Plumbing. All plumbing shall conform to the most recently adopted version of the building code and the local plumbing code. Hot and cold running water shall be provided in the service building.

(e) Day Nursery, small, large and adult.

(1) Parking. A day care facility, small, large or adult, shall provide one (1) off-street parking space per nonresident employee. This space shall be provided in addition to any parking required for other uses of the property.

(2) Drop-off/pickup area. One (1) designated off-street drop-off/pick-up space shall be provided per each four (4) children at a large day care facility and for every four (4) clients at an adult day care. The space shall be available during operating hours for loading and unloading of children or clients.

(3) Outside area – fence. The required play or recreation area shall not be located in the property's front yard.

(4) State codes. The day care facility shall comply with all applicable state codes and licensing.

(5) Hours of operation. The hours of operation for the day care may be restricted in residential neighborhoods to limit adverse impacts of noise and traffic on neighboring properties.

(f) Home occupation and home business.

(1) Use subordinate. The use of a dwelling for a home occupation or home business shall be clearly incidental and subordinate to its use for residential purposes and shall not change its basic residential character. The use shall not exceed twenty-five percent (25%) of the total structure's square footage.

(2) Activity conducted indoors. All on-site activities associated with a home occupation or home business shall be conducted indoors. Materials and equipment used in the home occupation or home business shall be stored in a building.

(3) Employment.

a. Home occupation. A home occupation shall be conducted only by persons residing on the premises and no more than one (1) employee residing off-premises.

b. Home business. A home business shall be conducted by persons residing on the premises and no more than three (3) employees residing off-premises.

(4) Patrons. A home occupation shall not serve patrons on the premises. A home business may serve patrons on the premises, provided that all other standards of this Section are met.

(5) Parking. One (1) off-street parking space shall be required for each employee residing off-premises. These spaces shall be provided in addition to the parking required for the principal residential use of the property.

(6) Sales. Incidental sale of supplies or products associated with the home occupation or home business shall be permitted on the premises. A home occupation or home business whose primary activity is retail sales shall be prohibited, except if the function of the home occupation or home business is catalogue sales. An appropriate sales tax license shall be obtained and maintained during the course of business.

(7) Nuisance. A home occupation or home business shall not produce noise, electrical or magnetic interference, vibrations, heat, glare, odors, fumes, smoke, dust, traffic or parking demand, and shall not operate at such hours or in such a manner as to create a public nuisance, disturb neighbors or alter the residential character of the premises.

(8) Codes. The building shall comply with all applicable City building, fire and safety codes for the particular business.

(9) Advertising. No outdoor advertising of the home occupation or home business shall be permitted, except as provided in Section 30-131 of this Chapter.

(g) Group home and treatment centers.

(1) Neighborhood density. A group home shall not be located closer than seven hundred fifty (750) feet to another group home.

(2) Health and safety codes. The group home shall comply with all applicable local, state or federal health, safety, fire and building codes.

(h) Drive-in Facility.

(1) Circulation. Drive-through lanes shall be separated from circulation lanes required to enter or exit the property. Drive-through lanes shall be marked by striping, pavement markings or barriers.

(2) Minimize impacts. Drive-through lanes shall be designed and located to minimize impacts on adjoining properties, including screening or buffers to minimize noise impacts. A fence, wall or other opaque

screen of at least six (6) feet in height shall be provided on all sides of the site that are located adjacent to property that is zoned for or occupied by residential uses.

(i) Mixed-use.

(1) Mixed-use buildings containing residential units must maintain a minimum of 25% of commercial use on the street facing ground floor.

(j) Temporary commercial uses and activities. Temporary commercial uses and activities may be allowed only when:

(1) Use allowed. The commercial use itself is allowed or is approved as a conditional use in the zone district.

(2) Parking. Adequate parking is provided for the use, as determined by the building official.

(3) Health and safety codes. The use complies with all applicable health and safety codes and a permit for the use is obtained from the building official.

(4) Location. The use is situated such that it does not block any required access or egress from the site and is not located on any required parking.

(k) Communication facilities.

(1) FCC compliance. The owner/operator of a proposed facility shall document in writing that it complies, and will continue to comply, with current Federal Communications Commission standards for cumulative field measurements of radio frequency power densities and electromagnetic fields, and Federal Communications Commission regulations prohibiting localized interference with the reception of television and radio broadcasts.

(2) Maximum height. A proposed facility, including antennae, shall not exceed the maximum structure height established for the zoning district in which the facility is to be located. Building- or structure-mounted antennas shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.

(3) Siting. The siting of a proposed facility must utilize existing or new land forms, vegetation, landscaping and structures so as to screen the facility from surrounding properties and public rights-of-way to the maximum extent feasible, and/or blend the facility with its surrounding environment.

(4) Compatibility. Facility design, materials, color and support structures, if any, shall be compatible with the surrounding environment, and monopole antennae and/or support structures shall be tapered from base to tip to blend in with the environment in which they are located.

(5) Accessories. Any accessory equipment, shelters or components shall be grouped together as closely as possible and screened from view.

(6) Mounted facilities. The maximum protrusion of such facilities from the building or structure to which they are attached shall be two (2) feet unless it can be shown by the applicant that it is not feasible to meet this criterion.

(7) Financial security. All permits for communication facilities shall be subject to a bond or other adequate financial security posted by the permittee and deposited with the City to ensure the disassembly and removal of the facility upon the expiration of the facility. The bond or other security shall designate the City as beneficiary.

(l) Correctional facilities not including community corrections facilities for such programs as are defined in section 14-2 of the Home Rule Charter for the City of Lamar and C.R.S. § 17-27-104 et seq., 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 15 acres in size.

b. The facility shall be established at least 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 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 planning and zoning commission may add conditions or safeguards to the approval of a correctional facility location in order to protect the health and welfare of citizens.

(m) Wrecking yards, salvage yards or junkyards, provided that the storage yard is completely enclosed with a six-foot solid fence or wall and located not less than 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.

(n) Mobile homes single. Existing mobile homes north of Parmenter Street may be replaced with a new code-compliant mobile home, provided the dimensional requirements of the underlying zone district and conditions of this section are met. Replacement or new mobile homes south of Parmenter are not permitted unless in a mobile home park zone.

(1) Placement of mobile home. Once a zoning permit is approved, an applicant shall pull a building permit and connect the mobile home to the required utilities within ninety (90) days of the issuance of building permit. The city shall cause the mobile home to be removed from the city limits in the event the mobile home remains inoperable or uninhabited after ninety (90) days.

(2) Condition of mobile home. Applicants shall provide evidence that the mobile home is new or in good repair. The following additional items shall be provided to the City at the time of the zoning permit application:

a. Photos or cut sheets of all elevations of the existing or new mobile home. These photos demonstrate that the mobile home is in good repair and all mechanical systems are operational. No mobile home shall be placed in the City limits that cannot demonstrate meeting the requirements for safe occupancy and evidence of required HUD tag requirements; and

b. All mobile homes shall provide utility connection plans and signoffs from City utility departments prior to any required conditional use permit hearings; and

c. All mobile homes must provide plans for the skirting of the unit and anchoring of the unit.

(o) Mobile home parks. Mobile home parks may be established as a conditional use if the following conditions are met:

(1) Minimum park size. A mobile home park shall be developed and operated on a site of at least two (2) acres.

(2) Minimum space size. Each mobile home unit space shall contain a surfaced area of not less than ten (10) feet by thirty (30) feet with an additional parking surface. Parking surfacing shall consist of asphalt, concrete or not less than four (4) inches of gravel, with edging required.

(3) Minimum setbacks for mobile homes. The minimum setback requirements for all permanent structures and mobile homes shall be as follows:

a. Perimeter. A minimum of twenty-five (25) feet from all boundaries of the park.

b. Separation. Mobile homes shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings or carports for purposes of this separation requirement shall be considered to be part of the mobile home.

(4) Landscaping. Landscaping shall be required for an area amounting to not less than fifteen percent (15%) of the gross area of the park. The landscape area may include the recreation area and common landscape areas and shall include a landscape area provided within the required perimeter setback to effectively screen or buffer the park from surrounding properties.

(5) Utilities installation and connection.

a. Code compliance. Utility installations and connection taps shall be installed to comply with all state and local regulations and codes. Electrical installations shall comply with all state and local electrical codes.

b. Underground. All utilities, except major power transmission lines, shall be placed underground.

c. Lighting. Adequate lighting shall be provided in compliance with the requirements of the City's Light and Power Department.

(6) Fire protection. Every recreational vehicle park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located within the park as prescribed by the fire marshal, with reference to the City's fire code. Fire hydrants shall be installed to comply with City standards and fire codes.

(7) Roadways and walkways.

a. Private. Internal roadways and walkways within the mobile home park shall be privately owned, built and maintained, and shall be designed for safe access to all spaces, parking areas, service buildings and recreation areas.

b. Entrance. The entrance to the mobile park shall be from a public road. The entrance shall not be located closer than fifty (50) feet to any public street intersection, shall be a minimum of thirty (30) feet in width, and shall be designed to comply with minimum American Association of State Highway and Transportation Officials (AASHTO) standards.

(p) Marijuana-retail, dispensary, centers, infuse product manufacturing, cultivation, or storage. It shall be unlawful for any person, corporation, partnership, limited liability company, company or association of persons, for profit or not for profit, to establish or operate any medical marijuana establishment, marijuana social club or retail, marijuana storage facility, commercial cultivation, medical marijuana center or medical marijuana

dispensary within the City in any zoning district, whether now herein acted or enacted or annexed hereafter. Said acts are prohibited on any plot or parcel of land, platted or unplatted, zoned or unzoned, within the corporate limits of the City.

(q) Medical marijuana cultivation by patient or caregiver. Medical marijuana cultivation is permitted as a home occupation within the City by a patient or primary caregiver; provided, however, that:

(1) There shall not be more than one primary caregiver per dwelling unit growing, storing or providing medical marijuana in any form to his or her patients;

(2) Such growing, storing or providing of medical marijuana is conducted in accordance with article XVIII, section 14 of the state constitution and C.R.S. § 25-1.5-106;

(3) The primary caregiver shall have not more than six plants per patient, with a maximum of 30 plants for five patients, being grown on the premises of the dwelling unit at any given time; and

(4) Accessory buildings, such as a detached garage, shed, greenhouse or other structure used for growing, storing or providing medical marijuana, must comply with all zoning bulk standards and building code and fire code provisions applicable thereto.

Sec. 30-40. 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 from which this chapter is derived 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 from which this chapter is derived, and upon which actual building construction has been carried on within a 90-day limit. The term "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 90-day limit.

Sec. 30-41. 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 from which this chapter is derived, 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 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 from which this chapter is derived, 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.

Sec. 30-42. Nonconforming uses of land or land with minor structures.

Where, at the time of adoption of the ordinance from which this chapter is derived, 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 $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 from which this chapter is derived 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 from which this chapter is derived or any amendment codified herein;

(3) If any such nonconforming use of land ceases for any reason for a period of more than 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.

Sec. 30-43. Nonconforming structures.

Where a lawful structure exists at the effective date of the ordinance from which this chapter is derived 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 75 percent 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.

Sec. 30-44. Nonconforming uses of structures or structures and premises in combination.

If lawful use involving an individual structure with a replacement cost of $1,000.00 or more, or of a structure and premises in combination, exists at the effective date of the ordinance from which this chapter is derived 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 part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance from which this chapter is derived, 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 consecutive months or for 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. The term "destruction," for the purpose of this subsection, means damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

Sec. 30-45. 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 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 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.

Secs. 30-12—30-49. Reserved.

ARTICLE IV. ZONING OVERLAY DISTRICTS AND PLANNED UNIT DEVELOPMENT

Sec. 30-50. F-P FLOODPLAIN OVERLAY DISTRICT -Intent and purpose of district.

The F-P Floodplain Overlay 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 watercourses and drainageways.

Sec. 30-51. District regulations.

In the F-P Overlay 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 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 the zone district.

Sec. 30-52. Special use regulations.

(a) Notwithstanding the requirements of the parent district, the other requirements of this chapter and the detailed regulations present in chapter 12 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 chapter 12. 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 chapter 12, 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 Overlay, all developed uses of land and buildings shall meet the minimum standards and requirements for development within flood hazard areas as outlined in this chapter.

Sec. 30-53. 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.

Sec. 30-54. 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.

Sec. 30-55. 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.

Sec. 30-56. 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.

Sec. 30-57. 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.

Sec. 30-58. 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.

Secs. 30-59. Reserved.

Sec. 30-60. PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT- 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;

(4) Provide affordable housing for the community and its workforce.

(b) The PUD District Overlay 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.

Sec. 30-61. 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) Conditional Uses:

(1) Conditional uses allowed pursuant to 30-34 in the parent district to which this district is made a part may be permitted; and

Sec. 30-62. 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.

Sec. 30-63. 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:

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

Sec. 30-64. 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 commercial or industrial establishment, or in the case of a residential area, more than one 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 within the PUD Overlay District.

(c) An applicant for a change in zoning to a PUD Overlay 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 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.

(3) Location map showing the development and zoning of the adjacent property within 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 a PUD Overlay District;

(5) A map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the area to be zoned a PUD Overlay District;

(6) A map showing the 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.

(8) Applications wishing to subdivide land within the PUD Overly District must submit applications and plats for Subdivision simultaneously for the planning and zoning commission and city council review in compliance with Chapter 22.

(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 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.

Sec. 30-65. 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 Overlay District lies in more than one 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, drainageways, creeks or land with grade slopes exceeding a 25-percent grade.

Sec. 30-66. Dimensional standards and supplemental regulations

The Dimensional standards and supplemental regulations 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.

Secs. 30-67- 30-69. Reserved.

Sec. 30-70. C-X ADULT ENTERTAINMENT OVERLAY DISTRICT- 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.

Sec. 30-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult business.

(1) The term "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 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.

(2) The term "adult business" also includes, but is not limited to, any and all of the following, as defined herein:

a. 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 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.

b. 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.

c. 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 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 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 mean 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.

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 20 percent or more of the gross floor space is devoted to that purpose; 20 percent or more of the retail floor space is devoted to that purpose; 20 percent or more of the gross sales of the business are derived from that purpose; or 20 percent or more of the stock in trade is devoted to that purpose.

Residential building means a building which is primarily designed and devoted for human habitation, excluding motels and hotels.

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.

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 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.

(Code 2000, § 16-24-20; Ord. No. 1045, 2002)

Sec. 30-72. 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 section 30-14 and C.R.S. § 31-23-301 et seq., 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 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 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.

Sec. 30-73. Location and site requirements for permitted uses.

Any adult business shall meet the following location and site requirements:

(1) Not more than two of such uses, excluding any uses having a certificate of legal nonconformance, shall be located within 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 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 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 20 feet, a side yard setback of ten feet and a rear yard setback of ten 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 7,500 square feet, at least five percent 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 15 feet in height or at least three inches in diameter for each 2,000 square feet of required landscaped parking area. Additionally, 15 percent of the entire lot area, including parking area, shall be maintained as an open landscaped area with a 20-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 wall-mounted sign no greater than one square foot of sign area per linear foot of wall length, not to exceed a total of 50 square feet, provided that the city council may approve the location of up to three signs, which collectively shall not exceed a total of 50 square feet in area. The sign 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.

Sec. 30-74. 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-inch equals 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 6’ masonry screening.

(6) The site plan shall delineate the proposed building layout with the front, side and rear building setbacks as required in section in the Zone I-2.

(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 section 30-72.

(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 section 30-837(9).

(17) The site plan shall set forth any other information necessary for determination of the suitability of the proposed use for the site.

Sec. 30-75. 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.

Secs. 30-76- 30-79. Reserved.

ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 30-80. 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 2½ feet and ten 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 50 feet from the point of the corner.

Sec. 30-81. Erection of more than one principal structure on a lot.

In any district, more than one 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.

Sec. 30-82. Exceptions to height regulations.

The height limitations contained in this chapter 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 150 feet.

Sec. 30-83. 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.

Sec. 30-84. Parking, storage or use of major recreational equipment.

For purposes of these regulations, the term "major recreational equipment" includes 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 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.

Sec. 30-85. 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.

Sec. 30-86. Accessory buildings.

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 unless it meets the requirements for an accessory dwelling unit.

Sec. 30-87. Setback line.

The setback line shall be determined by measuring the horizontal distance from the property line to the nearest architectural face of the building (porches poles or supports included as face of building).

Sec. 30-88. 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 3½ feet and where the same are so placed as not to obstruct light and ventilation.

Sec. 30-89. 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 building occupying one lot. The interior walls adjoining the neighboring property are not subject to side setbacks. The exterior of the structures must meet all setbacks.

Sec. 30-90. 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.

Sec. 30-91. Conformance to yard and space requirements with multiple principal uses.

Where a lot or tract is used for a nonresidential purpose, more than one principal use may be located upon the lot or tract, but only when the building conforms to all yard and open space requirements for the district in which the lot or tract is located.

Sec. 30-92. Dwelling units above commercial or industrial structures.

No side yards are required where dwelling units are erected above commercial and industrial structures.

Sec. 30-93. 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.

Sec. 30-94. Fences.

(a) No fence, wall, hedge, or shrubbery intended as a fence or partition between properties shall exceed four feet in height from the front building line toward an avenue, except that on corner lots, the four-foot limitation shall extend to the front of the primary building line. If no building exists, the four-foot limitation shall be applied in the first thirty feet of the front setback. 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 or from final grade if the yard is elevated above the curb line. All other fences may not exceed six 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 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 feet; provided, however, that planning and zoning commission may, by special permit, authorize the construction of a fence higher than six feet, if the board finds that the public welfare is preserved.

(d) All fences shall conform to the construction standards of the building code and other applicable provisions of this Code.

(e) All gates or other openings to fences or enclosures shall be so constructed that they shall open onto the premises of which they form a part of the enclosure, and not open or swing out or onto the streets or alleys within the City.

(f) Industrial zones may add barbed wire or up to an eight-foot fence.

Sec. 30-95. 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 from which this chapter is derived, 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 planning and zoning commission.

Sec. 30-96. 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 feet above the level of the sidewalk or other public way; and

(3) The canopy or marquee shall not extend beyond a point two feet inside the curbline of a public street.

Sec. 30-97. Protruding awnings.

(a) All cloth awnings built, constructed or placed upon, in conjunction with or appurtenant to any building, which shall project over any sidewalk, shall be built, constructed or placed so that the same shall be, when lowered, seven feet above the surface of such sidewalk, and the outer edge of the same shall be, when lowered, nine feet from the lot line of the building to which such awning is appurtenant, provided that the requirements of this section shall not apply to awnings built, constructed or placed for the protection of windows on any but the first or ground floor of buildings.

(b) All other awnings which require supports from the sidewalk upon which built, constructed or placed in conjunction with or appurtenant to any building which shall project over any sidewalk, shall have metal roofs. The supports thereof shall be of brick, concrete, stone or iron. No such awning shall be built without the plans and specifications being first exhibited to the city council and an order obtained permitting the awning to be erected. Such order shall be duly entered upon the records of the city council after having been adopted by the city council.

(c) If any person shall construct or cause to be constructed any awning projecting over any sidewalk in the City in violation of the provisions of this article, the public works department shall be authorized to cause any such awning to be removed at the expense of the person owning the same.

Sec. 30-98. 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 (Feet)	Setback Distance (Feet)
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 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 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 25 percent 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 very high frequency (VHF) omnidirectional range (VOR) and Doppler VHF omnidirectional range (DVOR) stations.

(7) Height of the WECS shall not exceed the maximum height restriction in the zone where it is located by more than 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 200 feet of the exterior lot lines.

(11) The owner/operator shall provide covenants, easements or similar documentation to ensure 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.

Sec. 30-99. Parking regulations.

(a) Compliance with the parking standards in this Section shall be required as part of the approval for the following activities:

1. A zoning development plan.
2. A new conditional use
3. A PUD application.

4. The redevelopment, repair, change of use, or an expansion of less than 25% of an existing structure shall not be subject to the off-street parking requirements below:

(b) Off-street parking shall be provided as follows:

1. Single-family dwellings and group homes: two spaces
2. Multiple-family dwellings including apartments and condominiums:
   a. With one bedroom or less: one space per dwelling unit.
   b. With 2 or more bedrooms: two spaces per dwelling unit.
3. Dormitories, bunkhouses and similar group sleeping quarters: one space for every three beds.
4. Hotels and motels: three spaces for every four units, plus one parking space for every three employees.
5. Rest homes and hospitals: one space per bed.
6. Offices: one space per 400 square feet of gross floor area.
7. Retail sales: one parking space for every 400 square feet of gross floor area, excluding areas devoted exclusively to storage and building maintenance.
8. Auditoriums, churches and theaters: one space per four seats if fixed seating, or one space per 50 square feet of the seating area.
9. Manufacturing, processing, assembling or similar industrial uses: one space per 400 square feet of gross floor area, exclusive of restrooms and building maintenance areas, provided that such parking lot occupy space provided to satisfy loading area requirements.
10. Uses not listed or described in one of the above categories: the Planning and Zoning Commission shall determine the off-street parking requirements.

(c) Additional parking apron, peripheral parking, on Street parking improvements, or parking waivers may be considered by the planning and zoning commission in its sole discretion, if the planning commission finds that such additional parking or reduction in parking is necessary to facilitate the development. This waiver shall be considered during the conditional use hearing or site development application process.

Sec. 30-100. Landscaping regulations.

(1) This Article establishes minimum standards for landscaping. The City encourages developers and landowners to exceed these minimums whenever possible. Compliance with the landscaping standards in this Article shall be required as part of the approval for the following activities:

1. A zoning development plan.
2. Conditional Uses.
4. A PUD application.

(2) General requirements.

(a) *Undeveloped areas*. Any part of a site not used for buildings, parking, driveways or sidewalks shall be landscaped. All undeveloped building areas within partially developed commercial or industrial uses shall be landscaped with a ground cover to control dust, noxious weeds, and erosion in a manner that is not obtrusive or does not obstruct the view of others.

(b) *Obstructions*. No walls, buildings or other obstructions to view shall be placed in the sight distance triangle. Trees may be located within the triangle, provided that they are pruned enough to permit unobstructed vision.

(c) Commercial or Industrial minimum landscape area and living cover. The minimum landscape area for each zone is established in Tables 30 A & B for each zone district. Within the minimum landscape area at least 15% of the covered area must be living plantings such as trees, shrubs, or other living cover incorporated into the landscape area. For the purpose of this living cover requirement grass, xeriscape, rock, mulch, or other ground cover does not count towards this requirement. For multi-family, commercial, or industrial projects a landscape plan must be included with the zoning development application per Section 30-12.

(d) In residential zones, 1 tree per unit. Multi-family projects must include 1 tree for the first 6 units.

(3) Screening.

(a) *Height*. All three-yard or greater trash or refuse collection areas shall be enclosed by a six-foot-high solid wood fence or masonry wall, styled to match the material of adjacent walls or the main building on the site.

(b) *Materials*. Screening walls, fences or structures shall be constructed from durable materials which are architecturally compatible with the primary building on the site.

(c) *Colors*. Screening devices shall blend into the landscaping, and muted earth tones shall be used as opposed to bright colors.

(d) *Maintenance*. All walls, fences or structures shall be maintained in good condition.

Secs. 30-101-30-129. Reserved.

ARTICLE VI. SIGN REGULATIONS

Sec. 30-130. 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.

Sec. 30-131. 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 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 nameplate for each dwelling unit; and

4. The nameplate shall be affixed to the principal building and 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 sign shall be permitted per lot;

2. No sign shall exceed five square feet in area;

3. Signs shall be located no closer than five 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 feet above the ground level; and

5. Ground signs shall not project higher than four feet above ground grade.

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

1. One 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 24 square feet in area;

4. No sign shall be located closer than eight 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 the required front yard;

6. A sign or bulletin board affixed to a building shall not project higher than ten feet above the ground level;

7. Ground signs shall be permanently anchored to the ground and shall not exceed a height of six feet above normal grade;

8. Buildings constructed on the property line prior to the effective date of the ordinance from which this chapter is derived shall be allowed one 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 feet above the level of the sidewalk, road, street or highway right-of-way.
4. The sign shall not extend beyond a point two feet inside the curbline of the road, street or highway right-of-way.
5. The sign shall not extend any farther away than four 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 side of an advertising or business sign shall not exceed three 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 times the lineal feet in the separate frontage. The total surface area shall not exceed 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 feet of a driveway or parking area, or within 50 feet of the intersection of two or more streets, shall have the lowest elevation at least 10 feet above the curb level.

g. No sign shall exceed 50 feet in height.

(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 500 feet of a residential district zone.

b. Non-flashing 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 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 side of any business sign on a lot shall not exceed three 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 times the lineal feet in the separate frontage. The total surface area shall not exceed 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 feet of a driveway or parking area, or within 50 feet of the intersection of two or more streets, shall have its lowest elevation at least ten feet above curb level.

f. Signs within 50 feet of a residential district shall be affixed to or be a part of the building.

g. A maximum of two signs shall be allowed for a business or profession conducted on the premises (only one shall be allowed on a facade).

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 feet above the level of the sidewalk, road, street or highway right-of-way.

4. The sign shall not extend beyond a point two feet inside the curbline of the road, street or highway right-of-way.

5. The sign shall not extend any farther away than four 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.

j. No sign shall exceed 50 feet in height.

(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. Non-flashing signs shall be permitted, provided that where the sign is illuminated by a light 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 side of any business sign on a lot shall not exceed three 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 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 feet of a driveway or parking area, or within 50 feet of the intersection of two or more streets, shall have its lowest elevation at least ten feet above curb level.
6. Signs within 50 feet of a residential district shall be affixed to or be a part of the building.
7. A maximum of two signs shall be allowed for a business or profession conducted on the premises (only one shall be allowed on a facade).
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:
    (i) Before erecting the sign, the owner of the sign obtains written permission and approval from the city administrator or his or her designee.
    (ii) The sign does not restrict pedestrian traffic and is not a safety hazard to pedestrians or the motoring public.
    (iii) No portion of the sign shall be less than eight feet above the level of the sidewalk, road, street or highway right-of-way.
    (iv) The sign shall not extend beyond a point two feet inside the curbline of the road, street or highway right-of-way.
    (v) The sign shall not extend any farther away than four 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.
10. No sign shall exceed 50 feet in height.

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 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 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:

    (i) Obstruct the view of street crossings or railroad crossings;

    (ii) Be unable to stand a pressure of at least 40 pounds per square foot of advertising surface;

    (iii) Be dangerous to the public by falling or blowing down;

    (iv) Increase the danger of loss by fire or to increase fire insurance rates; and/or

    (v) Approach nearer than five 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.* Unilluminated subdivision or development signs will be permitted in all zoning districts subject to the following regulations:

a. Only one sign shall be permitted per development.

b. No sign shall exceed 40 square feet in surface area, or six feet in height above normal grade.

c. No sign shall be located closer than eight feet from any side or rear lot line.

d. No sign shall be located closer to the front lot line than one-half 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 40 pounds per square foot of surface;

    3. Be dangerous to the public for any reason; and/or

    4. Approach nearer than ten 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.* Unilluminated temporary construction company signs will be permitted in all zoning districts, subject to the following regulations:

a. Only one 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 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 feet above the surrounding ground level.

e. Signs shall not exceed eight square feet in surface area.

f. No sign over 20 feet in height shall be installed.

Sec. 30-132. 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. The building department shall be responsible for the creation of a sign application in accordance with Article VI.

(b) Application for permits by persons 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 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) City Council shall set a permit fee with other City fees 30-11. Applicants must pay the charge before a permit is granted.

(d) If a sign for which a permit is granted is not erected within 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 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.

Sec. 30-133. Nonconforming signs.

(a) All advertising and business signs in zoning districts C-l, C-2, C-3, I-1 and I-P established and constructed after the effective date of the initial ordinance from which this chapter is derived 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 from which this chapter is derived in zoning districts other than those enumerated in subsection (a) of this section shall conform to all sign regulations applicable to the zoning district in which the sign is located.

Sec. 30-134. 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 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.

Secs. 30-135-149. Reserved.

ARTICLE VII. APPEAL PROCEDURES AND VARIANCES[1]

Sec. 30-150. Board of adjustment and appeals.

(a) The board of adjustment and appeals has been established and appointed to administer Article VII pursuant to C.R.S. § 31-23-304. Members from the planning and zoning commission may serve on board of adjustment and appeals. However, city council liaison members are prohibited from serving on the board.

Sec. 30-151. 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) Considering appeals from applicants or citizens in which the planning and zoning commission has rendered the final decision; and

(3) Establishing a schedule of fees and charges as stated in section 30-11.

Sec. 30-152. 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 when serving as the board of adjustment and appeals:

(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

[1]State law reference(s)—Requirement to establish a board of adjustments and appeals, certain procedures required, C.R.S. § 31-23-304.

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.

Sec. 30-153. Variances.

(a) No variances shall be authorized by the board of adjustment and appeals unless it finds that:

(1) The strict application of this chapter 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.

(5) Variance requests that maintain existing building set back lines may be granted provided that the applicant can maintain the proposed improvement without injury of neighboring properties.

(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.

(e) All variance applications shall provide any zoning development plan details required by the building official in accordance with Section 30-8.

(f) If the board of adjustment and appeals denies a variance, an applicant may modify their application and resubmit for consideration within ninety (90) days after the final decision by the board.

State law reference(s)—The board of adjustment and appeals grants variances in harmony with its general purpose and intent and general or specific rules of the Code, C.R.S. § 31-23-301.

Sec. 30-154. Appeals from board of adjustment and appeals.

Any person, 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.

Secs. 30-155—30-169. Reserved.

ARTICLE VIII. ADMINISTRATION, ENFORCEMENT, NUISANCE, AND PENALTIES

Sec. 30-170. Fees, charges and expenses.

(a) Pursuant to Section 30-11 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.

Sec. 30-171. 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.

Sec. 30-172. 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.

Sec. 30-173. Nuisance

(a) No person or owner, agent, or occupant of or having under his or her control any structure lot or premises lying within the limits of the City shall create, maintain or allow any nuisance to continue and anyone causing such nuisance to exist shall be deemed the author thereof.

(b) Whenever any building, lot, or premises within the limits of the City contains litter, trash, rubbish, garbage, refuse, brush, weeds, and/or there exists any unsafe or abandoned structures, the same shall constitute a nuisance and shall be in violation of this Section.

(c) Unsafe or abandoned structure which is structurally unsafe, in a state of deterioration or decay, constitutes a fire hazard or is infested by rodents, termites, cockroaches or any other types of infestation that is unsafe or unhealthy, or which constitutes a hazard to public safety shall be in violation of this code.

(d) Any violation of this chapter of adopted building or property maintenance codes adopted by reference by the city.

Sec. 30-174. 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 subject to the fines and penalties provided in chapter 1 Section 1-21 of this Code. 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.

Secs. 30-175—30-199. Reserved.

ARTICLE IX. VESTED PROPERTY RIGHTS[2]

Sec. 30-200. Purpose.

The purpose of this article is to provide the procedures necessary to implement the provisions of C.R.S. § 24-68-101 et seq.

Sec. 30-201. Definitions.

The terms used in this article shall have the meaning ascribed in C.R.S. § 24-68-102.

Sec. 30-202. 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.

Sec. 30-203. 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 C.R.S. § 31-23-304 for zoning regulations or with any other required notice. At such hearing, interested persons shall have an opportunity to be heard.

[2]State law reference(s)—Right and procedures to establish vested property rights in a site specific development plan, C.R.S. § 24-68-101 et seq.

Sec. 30-204. 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. 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.

Sec. 30-205. 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 C.R.S. § 24-68-101 et seq., 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 of property affected and stating that a vested property right has been created shall be published once, not more than 14 days after approval of the site-specific development plan, in a newspaper of local circulation.

Sec. 30-206. 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.

Sec. 30-207. 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 which provisions were in effect at the time the site-specific development plan, including any amendments, were approved.

Sec. 30-208. Limitations.

Nothing in this chapter is intended to create any vested property right, but only to implement the provisions of C.R.S. § 24-68-101 et seq.

Secs. 30-209—30-299. Reserved.

ARTICLE X. HISTORIC PRESERVATION

Sec. 30-300. Historic Preservation Board Authority.

(a) The historic preservation advisory board as established in Chapter 2, Section 2-360 is responsible for the administration of Article created, to be known as the City of Lamar Historic Preservation Advisory Board (the Board), which shall have principal responsibility for matters of historic preservation as set forth in Article.

Sec. 30-301. Purpose and Intent.

(a) The purpose of this Article is to promote the city's public health, safety and welfare through:

(1) The protection and preservation of the historic and cultural heritage of the city by providing for the designation of historic buildings, landmarks, sites and districts (collectively referred to hereinafter as historic sites) in accordance with this article;

(2) The enhancement of property values and the stabilization of historic neighborhoods, sites of historical events and the like;

(3) The establishment of the city's historic register listing of historic properties and historic districts;

(4) The cultivation of civic pride in the art, architecture, and accomplishments of the past;

(5) The encouragement of continued private ownership and utilization of such historic properties or historic districts now so owned and used;

(6) The promotion of thoughtful community planning and design;

(7) The increase of economic and financial benefits as a result of the attraction of tourists and visitors to the City; and

(8) The provisions of educational opportunities to increase public appreciation of the city's unique heritage.

(b) *Intent.* The intent of this division is to create a reasonable balance between private property rights and the public interest in preserving the city's unique historic character through the designation of buildings, structures, sites, objects, and districts for preservation.

Sec. 30-302. - Definitions.

Definitions. For purposes of this division, the following terms are to be defined as follows:

Alteration or *alter* means any act or process that changes one or more of the exterior architectural or landscape features of a building, structure, site, object or district.

Applicant means person or persons submitting nomination or alteration paperwork.

Board means the historic preservation advisory board established in Chapter 2, Section 2-360 of the Municipal Code.

Building means a shelter or enclosure constructed for persons or commercial business.

Building code means the building code adopted and enforced by the City.

Building official means the officer or other designated authority charged with the administration and enforcement of the building code, or that person's authorized representative.

City means the City of Lamar.

City Council means the mayor and/or city council of the City.

City's historic register means the register established pursuant to section 2-300 of this division.

Colorado State Register of Historic Properties means the official listing of state-designated cultural resources.

Construction or *construct* means the act of erecting an addition to an existing building, structure, or object or the erection of a new principal or accessory building, structure, or object on a lot of the property.

Contributing property means a building, structure, site, or object that reflects the historic or architectural character within a historic district.

Demolition or *demolish* means any act or process that destroys in part or in whole a building, structure, object or site.

Demolition by neglect means neglect in maintenance, repair or security of a site, building or structure, resulting in any of the following conditions:

(1) The deterioration of exterior walls or other vertical supports or a portion thereof;

(2) The deterioration of roofs or other horizontal members;

(3) The deterioration of exterior chimneys;

(4) The deterioration of exterior plaster or mortar;

(5) The ineffective weatherproofing of exterior walls, roofs and foundations, including broken windows and doors; or

(6) The serious deterioration of any documented exterior architectural feature or significant landscape feature which, in the judgment of the commission, produces a detrimental effect upon the character of the district.

Design guidelines means a standard of appropriate activity that will preserve the historic and architectural character of a historic property, property, or historic district.

Director means the Lamar community development or their designee.

Emergency means an unexpected and sudden event that must be dealt with urgently in order to stabilize or protect a structure.

Historic district means a geographically definable area with a concentration of buildings, structures, sites, spaces or objects unified by past events, physical development, design, setting, materials, quality, sense of cohesiveness or related historical and aesthetic associations, that is recognized through listing in a local, state or national landmarks register.

Historic property means a building, structure, site, or object which is designated by the city council pursuant to this division.

Historic significance means the meaning or value ascribed to a building, structure, object, site or district based on criteria for evaluation as defined by section 2-362 of this division.

Historic site means the location of a significant event; a prehistoric or historic occupation or activity; or a building, structure, or object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing building, structure, or object.

Integrity means the ability of a property to convey its historic period of significance through its physical features.

Major alteration means a modification to a structure that has the potential to significantly alter the character of the property and includes, but is not limited to, window replacement; building addition; porch enclosure; reconstruction of a portion of the primary building; addition of dormers or other alteration to the roofline; reconstruction of features on a building; material replacement with a different material (e.g., siding); alteration or replacement of a character-defining feature; demolition; relocation; and new construction. Major alteration includes any modification that is not considered maintenance or a minor alteration.

Minor alteration, for the purposes of this article, means a modification to a structure that does not significantly alter the character of the property and includes, but is not limited to, replacement of roof; installation and repair or replacement of gutters if exterior trim elements are not altered; reconstruction and/or

repair of portions of secondary structures; addition or replacement of storm windows and doors to existing windows and doors; repair or replacement of architectural elements with the same material, design, size, color and texture; replacement of less than 50 percent of a porch railing; replacement of original material with the same material (e.g., replacing a portion of wood siding with wood siding of the same size, profile and type); removal of nonoriginal material, such as vinyl, aluminum, etc.; adding awnings; repainting masonry; and signs requiring a permit.

National Register of Historic Places means the list of significant buildings, structures, sites, objects, or districts in American History, architecture, archaeology, engineering, or culture maintained by the U.S. Secretary of the Interior.

Non-contributing property means a building, structure, object, or site that does not reflect the historic or architectural character within a historic district because of age or lack of integrity.

Object means a material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Owner means the person, corporation, government, or other legal entity who owns or who has any legal or equitable interest in property and who is so listed as owner on the records of the county assessor's office.

Property means a building, structure, site, or object, including all real and personal property.

Relocation and *relocate* means moving a building, structure, site, or object to a different location, either temporarily or permanently.

Secretary means the secretary of the historic preservation advisory board.

Secretary of the Interior's standards for the treatment of historic properties means the preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.

Section 106 review means process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.

Stabilization means the act or process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated cultural resource while maintaining the essential form as it exists at present.

Structure means a construction for purposes other than shelter for humans, animals, or chattel (such as road, bridge, canal, or fence).

Sec. 30-303. Criteria for designation of historic sites.

a. *Applicability.* This section applies to the following properties:

1. Individually designated properties are subject to the most current version of the historic preservation general design review guidelines.
2. Individually designated properties contributing to a Lamar historic district are subject first to the district designation plan, then to the historic preservation general design review guidelines.
3. Undesignated properties contributing to a Lamar historic district are subject to the district designation plan.
4. Undesignated structures or buildings that are 50 years or older are subject to an administrative review for potential historic significance.
5. Noncontributing properties located in a historic district are subject to portions of the district designation plan applicable to noncontributing properties, unless specifically excluded under the plan.

6. All pertinent municipal zoning and building codes are applicable for all properties.

b. *Administrative review of undesignated properties.* When application for a permit is made with the City that would make significant alterations to the streetscape view of the exterior of or demolition of any structure or building that in a historic district and is 50 years or older at the time of such request, the application shall be forwarded to and reviewed by the director.

1. Significant alterations shall include:

(a) Siding: including new stucco or similar exterior material applied over original or other existing siding materials, including wood, metal or brick exterior; removal of all or a portion of the original or existing siding and replaced with new siding.

(b) Fenestration: window or door openings enlarged or reduced.

(c) Roof: changes of roofline or structure.

(d) Porches: changes to porch visible from streetscape.

(e) Additions.

(f) Accessory structures and fencing.

(g) Any building modification as viewed from any public street.

2. Non-significant alterations shall be excluded from review by the director. Non-significant alterations shall include:

(a) Fenestration: replacement of windows or doors in original openings.

(b) Roof: new shingles or deck without changing original roofline.

(c) Patios: additions of back patios or decks.

(d) Landscaping.

(e) Signs.

3. In consultation with the building official, the director shall have ten business days to review and comment on applications with major alterations. The ten business days shall commence on the day the permit application is submitted to the building department. Should ten business days expire without written comment from the director, then the director shall not be allowed to comment on the permit.

(a) The director shall review the property and, if necessary, research the historical significance of the building for which a permit has been applied.

(b) If the director determines that a building currently holds no historical, architectural and/or geographical significance, then a notice shall be placed with the permit that will be issued through the building department.

(c) If the director determines that potential significance exists, the director shall make the information available to the groups named in section 2.362.d.2.

(d) The director shall issue comments and/or suggestions to the building department. These comments shall recognize the historical, architectural and/or geographical significance or lack thereof concerning the building for which a permit has been requested. The director may also make suggestions of ways to make the changes more compatible or acceptable with the age or type of the structure.

4. Whenever an application for development includes significant alterations or demolition and is required to go through the community development department review according to this section, the

department will use its best efforts to inform the applicant of the ramifications that this section will have on the application.

5. If a building must be demolished because it poses a threat to the health, safety or welfare of the citizens of the City, this section shall not apply.

c. *Criteria for designation.*

1. *Criteria for individual, owner-nominated properties.* A property shall be eligible for designation for historic preservation and eligible for economic incentives if it meets one or more criteria in one or more of the following categories:

(a) *Historical significance.* The site, building or property:

(1) Has character, interest and integrity and reflects the heritage and cultural development of the city, state or nation.

(2) Is associated with an important historical event.

(3) Is associated with an important individual or group who contributed in a significant way to the political, social and/or cultural life of the community.

(b) *Architectural significance.* The property:

(1) Characterizes an architectural style or type associated with a particular era and/or ethnic group.

(2) Is identified with a particular architect, master builder or craftsman.

(3) Is architecturally unique or innovative.

(4) Has a strong or unique relationship to other areas potentially eligible for preservation because of architectural significance.

(5) Has visual symbolic meaning or appeal for the community.

(c) *Geographical significance.* The property:

(1) Has proximity and a strong connection or link to an area, site, structure or object significant in the history or development of the city, state or nation.

(2) Is a visual feature identifying an area or neighborhood or consists of buildings, homes, replicas, structures, objects, properties, parks, land features, trees and sites historically or geographically associated with an area.

2. *Criteria for individual, non-owner-nominated properties.* In addition to meeting criteria requirements in section 30-303.a., non-owner nominations shall be reviewed under stricter protections. The nominated property must demonstrate that it possesses the characteristics of compelling historic importance to the entire community, including at least one of the following criteria:

(a) Unusual or uncommon significance that the structure's potential demolition or major alteration would diminish the character and sense of place in the community of Lamar; or

(b) Superior or outstanding examples of architectural, historical or geographical significance criteria outlined in the criteria for designation in this section. The term "superior" shall mean excellence of its kind, and the term "outstanding" shall mean marked by eminence and distinction.

3. *Criteria for district designation.* A district shall be designated if the city council determines that the proposed district meets the definition of a historic district pursuant to this section and meets one or more of the following criteria:

(a) Is an area which exemplifies or reflects the particular cultural, political, economic or social history of the community.

(b) Is an area identified with historical personages or groups or which represents important events in national, state or local history.

(c) Is an area which embodies distinguishing characteristics of an architectural type or style inherently valuable for the study of a period, method of construction or indigenous materials of craftsmanship.

(d) Is an area which is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized.

(e) Is an area which, due to its unique location or singular characteristics, represents established and familiar visual features of the neighborhood, community or city.

4. *Integrity criteria.* All properties and districts shall be evaluated for their physical integrity using the following criteria, as defined by the National Park Service in the current version of the publication "How to Apply the National Register Criteria for Evaluation":

(a) Location—the place where the historic property was constructed or the place where the historic event occurred.

(b) Design—the combination of elements that create the form, plan, space, structure and style of a property.

(c) Setting—the physical environment of a historic property.

(d) Materials—the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

(e) Quality/skill—the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

(f) Feeling—a property's expression of the aesthetic or historic sense of a particular period of time.

(g) Association—the direct link between an important historic event or person and a historic property.

d. *Designation.* A property or district may only be nominated once in any 12-month period, unless such nomination is uncontested. Submittal of an incomplete application will result in a delay in the nomination and public hearing process. The following provisions shall apply to the nomination of individual properties and districts:

1. *Owner nominations.* Any owner may nominate such owner's area, building, house, replica, structure, object, property, park, land feature, tree and site for designation on the local register, subject to the following procedures:

(a) *Submittal requirements.* The owner shall submit a complete application, as determined by historic preservation staff. A complete nomination application will include:

(1) Nomination form with ownership information, including address of record, signatures of all owners of record or legally authorized representative of the owner, legal description or indication of an attached legal description.

(2) Historic building inventory form, with the following required minimum information completed: nominated property address, owner, mailing address, phone number, legal description, historic use, present use, date of construction (estimate), original owner (if possible) and significance (determined in consultation with the director if necessary).

(3) Current photos of the front and sides of the property, and of the rear to the extent possible. If the photos are digital, they should be at least 300 dpi. All photos should be provided with a photo log indicating the name of the photographer, date of the photo, view (front, rear, yard, etc.), direction (looking north, etc.) and the address of the subject property.

(4) Application fee, payable to the City of Lamar. The fee may be waived under certain circumstances. If the owner has a financial hardship, the owner may submit a request for a reduction or waiver of the nomination fee, explaining the need for the waiver or reduction. The director shall make determinations on fee waiver requests.

(b) *Public hearing procedure.*

(1) *Quorum required.* At least three members of the board must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chair of the board may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to a conflict of interest, then an alternate board member shall be used.

(2) The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the board.

(3) *Board action/decision.* After the board has heard all interested parties and relevant evidence, the Board may recommend the designation for approval if it casts votes in favor of historic designation by a two-thirds majority of the quorum present.

(4) The city council will consider the application and board's recommendation for approval.

2. *Non-owner nominations.* The planning and zoning commission, Lamar Redevelopment Authority, Main Street Lamar, or any legally recognized preservation organization, including nonprofit historic preservation groups, may nominate an area, building, house, replica, structure, object, property, park, land feature, tree or site for designation on the local register, subject the following procedures:

(a) *Submittal requirements.* All paperwork for the application must be completed pursuant to the rules of the board. A complete nomination application will include:

(1) Nomination form, with ownership information including address of record, signature of an authorized official of the applicant organization and legal description or indication of attached legal description.

(2) Historic building inventory form, with the following required minimum information completed: nominated property address, owner, mailing address, phone number, legal description, historic use, present use, date of construction (estimate), original owner (if possible), significance (determined in consultation with the director if necessary) and a detailed statement on how the nominated property possesses the characteristics of compelling historic importance to the community.

(3) Current photos of the front and sides of the property, and of the rear to the extent possible. If the photos are digital, they should be at least 300 dpi. All photos should be provided with a photo log indicating the date of the photo, view (front, rear, yard, etc.), direction (looking north, etc.) and the address of the subject property.

(4) Copy of a legally recorded document containing the legal description of the property. This could be an abstract of title, warranty deed, quit claim deed, etc., which may be obtained from the county clerk and recorder.

(5) Application fee established pursuant to Section 30-11, payable to the City of Lamar.

(b) *Public hearing procedure.*

(1) *Quorum required.* At least three members of the board must be present at a hearing to establish a quorum. If a quorum is missing due to attendance, then the chair of the board may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then alternative board members shall be used.

(2) The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the board.

(3) *Board action/decision.* Board members may recommend in favor of historic designation for approval of non-owner-nominated properties if three votes are cast in favor of such recommendation, subject to approval by the city council under this section.

(4) *City council action on non-owner nominations.* Within 30 days of the board decision, city council shall hold a public hearing and consider all relevant evidence. The council shall vote and render a decision to affirm, deny or modify the designation with a vote of the simple majority. The council decision constitutes final agency action.

3. *Historic districts.* Two or more individuals may nominate a district within which they own property.

(a) *Submittal requirements.* All paperwork for the application must be completed pursuant to the rules of the Board. A complete nomination application will include:

(1) The complete nomination form with original signatures of all applicants. In the case of absentee owners as applicants, original signed statements will meet this requirement.

(2) Completed historic building inventory form for district properties for all properties within the nominated area. The following fields must be completed: address, legal description, owner name and address, style, materials, stories, other historic designation and designating authority, historic use, present use, date of construction, condition, original owner, associated buildings, architectural description, proposed status and the name, address, phone number and signature of the person or group who completed the inventory form.

(3) Current digital photos of the front of each property and streetscape photos of each block. The photos should be at least 300 dpi and be provided with a photo log indicating the date of the photo, view (front, rear, yard, etc.), direction (looking north, etc.), and the address of the subject property.

(4) List of owners, mailing addresses, district property address and legal description of each property. This item may be supplemented or modified during the nomination process prior to the designation hearing.

(5) Proposed status of all properties as contributing or noncontributing. The applicants should consult with the director in making these proposed determinations. This item may be supplemented or modified during the nomination process prior to the designation hearing.

(6) Application fee, payable to the City of Lamar.

(7) District designation plan, developed in accordance with the requirements in this section. The applicant must submit two unbound copies and an electronic version contained in a PDF file and a Word or other editable file.

(8) Historic context statement.

(9) Statement of significance, including a detailed explanation of how the proposed district meets one or more criteria in section 30-303.c.1 above and how it meets the definition of historic district, as defined in section 30-303.c.3.

(10) Petition with signatures of property owners within the district showing support of the nomination. Support of the nomination for a historic district requires the following:

i. The petition shall contain no less than 20 percent of the number of properties or lots within the proposed area, whichever is less.

ii. Each property or lot shall only be represented by one signature. Properties held in any type of joint ownership do not get split votes.

iii. The petition shall be considered final for purposes of accounting for the 20 percent at the time of submission to the City.

(b) *District designation plan.* Owners of properties being nominated as part of a district must develop a district designation plan. The plan shall address all properties: contributing, noncontributing, and properties individually listed on the city's historic register. If a provision of the district designation plan conflicts with this section, then the district designation plan approved by the city council shall prevail unless doing so would negatively affect the City's certification standing regarding historic preservation. Requirements under the plan will be drafted by the applicant, reviewed by the director and considered by the board. The board shall forward a recommendation for the plan with the district application to the city council, which shall render the final designation decision.

(c) *Neighborhood meeting.* If the nomination is for designation of a historic district, a neighborhood meeting shall be held to describe the proposed designation. All owners of property within the proposed district boundaries will be notified by first-class mail of the time, date and location.

(d) *Owner vote.* After the neighborhood meeting but prior to the board's designation hearing, a vote by property owners of the nominated district shall be cast to ascertain consent or objection about the proposed designation. The vote shall be done by mail ballot, with one ballot per property as sent by first-class mail by the city clerk's office. The city clerk's office will be responsible for conducting the election of the eligible voters in the proposed historic district. The ballot must be received by the city clerk's office by mail or in person by the date and time specified by the city clerk. Greater than 30 percent of votes cast must be in favor of historic designation or the nomination fails. If greater than 30 percent of cast votes are in favor of the district designation, a public hearing shall be scheduled according to section 30-303.e.

(e) *Public hearing procedure.*

(1) *Quorum required.* At least three members of the board must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chair of the board may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then alternative board members shall be used.

(2) The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the board.

(3) *Board action/decision.* Board members may recommend in favor of historic designation for historic districts if three votes are cast in favor of such recommendation, subject to approval by the city council under this section. Owners may appeal the decision pursuant to section 30-303.f.

(4) *City council action on historic districts.* Within 30 days of the board decision, the city council shall hold a public hearing and consider all relevant evidence. The city council shall vote and render a decision to affirm, deny or modify the designation. The city council decision constitutes final agency action.

(f) *Modification.* Modification of a district designation plan will follow the same rules and procedures as for the nomination of a historic district, except no moratorium shall be placed on district properties. Property owners within the district or the board may propose to modify a district designation plan. Proposals to modify a district designation plan shall be reviewed by the board for recommendation to the city council.

4. *Recording.* The certificate of designation shall be recorded with the county clerk and recorder as follows:

(a) Owner-nominated properties shall be recorded within five business days after the 30-day period for appeal pursuant to section 30-19 if no appeal is filed, or within five days after a final city council decision.

(b) Non-owner-nominated properties or historic districts shall be recorded 35 days after approval by the city council pursuant to the procedures set forth in this Paragraph.

(c) Recording fees shall be paid by the nominating party.

(d) Within 15 days after recording of the historic designation, the director shall send, via first-class mail or via e-mail, notice to owners outlining reasons for the designation.

5. *Moratorium.*

(a) A potential historic property or district which has been nominated but not yet designated shall be legally protected for 120 days or until its status is determined, whichever is sooner.

(b) Permits to alter or remodel the exterior of a property or to build, relocate or raze shall not be issued during the moratorium, except by written exemption by the board under the following criteria:

(1) As necessary by law under federal or state law or city ordinance;

(2) When deemed to be an emergency;

(3) Due to unreasonable economic hardship, as defined in section 30-302; or

(4) Due to improper nomination.

(c) Owners requesting such exemption may seek an expedited public hearing before the board at the next scheduled board meeting by filing such a request with the director. If the board votes by a two-thirds majority that the property is eligible for exemption, the moratorium or nomination shall be suspended in whole or in part in consideration of the property seeking the waiver.

6. *Signs.* A sign approved by the board may be installed indicating the designation. The board may supply and pay for uniform signs for designated properties, subject to availability of funds. Such signs shall conform to city ordinances governing other signs in the city.

e. *Notice.* Notice of board public hearings shall be as follows:

1. *Nomination and designation.* The director shall send a letter of notification of nomination and public hearing for all Lamar historic register nominations.

(a) For owner-nominated properties, all owners shall receive notice of the nomination and public hearing by first-class mail, sent by the City, by hand delivery or by electronic mail.

(b) All owners of non-owner-nominated properties shall receive notice of the nomination and public hearing by certified mail, return receipt requested, sent by the City.

(c) All owners in a nominated district shall receive notice of the nomination and neighborhood meeting by certified mail, return receipt requested, sent by the City.

(d) The City shall receive notice for city-owned properties by hand delivery or by electronic mail.

(e) Notice shall be postmarked no less than 15 days prior to the hearing and shall reference the following:

(1) Privileges, obligations and restrictions which apply to historic properties or districts.

(2) For individual owner and non-owner nominations, the time, place and date of the Board public hearing for designation.

(3) For historic district nominations, such notice shall also include the time, place and date of the district informational neighborhood meeting.

(f) If sufficient ballots voting in favor of district designation are returned from property owners, a district designation hearing shall be scheduled. For notification of the public hearing for historic district nominations, notice shall include the time, date and place of the public hearing, and letters shall be mailed certified mail, return receipt requested, by the city.

(g) The notification letters shall be mailed to the owners at such owners' last known address of record.

2. *Newspaper notice.* The notice of designation hearing shall also be published in a newspaper of local circulation once a week for two weeks prior to the hearing. Newspaper notice shall include the following information:

(a) Street address of the property or a list of addresses or boundaries for properties in a proposed historic district;

(b) Type of application: request for certificate of designation;

(c) Date, time and place of the public hearing; and

(d) Statement that additional information about the request is available at the historic preservation office.

3. *Sign*. A sign of sufficient size to be readily visible by landowners of adjoining property and from a public right-of-way shall be posted in a prominent place on the property no less than 14 days prior to the public hearing. In the case of nominations for a historic district, postings shall occur in the district in a manner clearly visible from public rights-of-way adjacent to the proposed district.

f. *Appeal.*

1. *Administrative decision.* A final decision by the director under this section may be appealed by the applicant to the board.

(a) Appeals to the board shall be filed pursuant to 30-19 to the director a written notice of appeal within 30 days after the applicant has been served with notice of the decision by the director. A determination by the board shall be issued within 30 days.

(b) The decision of the board on appeal shall be final unless the applicant or developer elects to appeal the board decision to the city council.

2. *Board decision.* Decisions of the board are reviewable by the city council.

(a) The findings and determinations of the board may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the city council.

(b) Appeals to the city council shall be filed pursuant to Section 30-19.

g. *Incentives.* An owner of a property that has been designated as historic or an owner of a contributing property in a designated historic district may apply for the following economic incentives for modifications or rehabilitation of that property and such additional incentives as may be developed by the board:

1. Applicable state and federal tax credits.

2. Building permit fee discount. At the discretion of the city council and dependent on funding, a portion of building permit fees may be discounted for applications for projects on individually designated properties and all properties in a Lamar Historic Register designated district, including contributing and noncontributing properties.

4. The board shall attempt to identify and implement other economic incentives for historic properties. The director shall notify the owners of historic properties of economic incentive opportunities available.

5. The board shall make the determination for each request for state historic preservation income tax credits.

h. *Alterations to designated property.* Owners intending to reconstruct, improve, demolish or in any way significantly alter or change a designated property or a property in a historic district must first submit the owner's plan for review to the appropriate city departments as to compliance with all city codes and ordinances.

1. All required building, relocation and/or demolition permits shall be applied for. Permits will not be released without board approval or unless the director determines that the permit should be released due to extenuating or emergency circumstances. The board or director shall not issue a certificate of approval without evidence of permit application, if required. Certificates of approval shall be issued contingent upon the owner and/or applicant obtaining all required permits.

2. After consultation with the city's building department and historic preservation office, the owner shall submit a plan for review by the director or board, and a certificate of approval shall be issued to properties that the director or board believes can be altered without diminishing the historic character of the property or district.

3. *Major alterations.*

(a) *Application requirements.* A complete application for major alterations will contain the following: a signed application, application fee, legal description, narrative, drawings and mockups as necessary, product literature and/or samples as necessary, and digital photos as determined by the city. Projects shall be reviewed in accordance with the criteria and standards for altering properties set forth in this section.

(b) *Application and hearing process.*

(1) *Notification.* Upon receipt of a complete application, the director shall schedule a public hearing for a certificate of approval on the matter before the board, providing sufficient staff review time. Notice will be given by the city in accordance with requirements in 30-13.

(2) *Public hearing.* A quorum must be present at a public hearing for a certificate of approval. If a quorum is missing due to attendance, then the chair of the board may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then alternate board members shall be used.

(3) The director shall prepare a report which shall include a summary of all comments received on the certificate of approval application, along with the staff recommendation, which shall be presented to the board. In taking action on a certificate of approval application, the board shall consider the staff report and recommendation and comments received from the applicant and the public. The board shall also consider whether the proposed project meets the criteria and standards in section 30-303.i.1 in taking action to approve, approve with conditions, deny or table the application for future consideration.

(c) *Findings.* The findings of the board shall be based on criteria and standards in section 2-303.j, and the decision of the board on a certificate of approval for a major alteration application shall be considered final unless appealed by the property owner or applicant to the city council, in accordance with the appeal process in section 30-19.

(d) *Certificate of approval.* After approval of a certificate of approval major alteration application, the director shall cause the certificate of approval, signed by the board chair, which may include plans, drawings, photos and other documents, as approved, to be recorded in the office of the county clerk and recorder. The applicant or property owner shall be responsible for paying all applicable recording fees. Work shall be completed within 12 months of the date of board approval, with the option for up to two six-month extensions as approved by the director. Work not complete within these time parameters will require new approval through submittal of a new application to the board for review.

(e) *Denial.* If an application for a certificate of approval is denied, the applicant may revise the application extensively or submit a new application for review by the board. In this case, the application would be considered a new application and would follow the entire process for certificate of approval applications. The applicant may appeal decisions of the director to the board and decisions of the board to the city council, in accordance with appeal procedures in section 30-19.

4. *Minor alterations.*

(a) *Application requirements.* A complete application for minor alterations will contain the following: signed application, photos, narrative, product literature or drawings as necessary and the application fee as determined by the City.

(b) *Application process.*

(1) *Notification.* Upon receipt of a complete application, the director shall notify the property owner and applicant of receipt of the application and requirement for staff review.

(2) *No public hearing.* No public hearing is required for minor alteration applications.

(3) *Findings.* The director shall review the application for minor alterations and make findings based on criteria and standards set forth in section 30-303.i.

(4) *Certificate of approval.* The director shall approve the application and issue a certificate of approval if the proposed project meets the criteria and standards set forth in section 30-303.i, and can be completed without negatively impacting the historical integrity of the property. After approval, the director shall cause the certificate of approval for minor alterations to be signed by the director, which may include plans, photos or other documents, to be recorded in the office of the county clerk and recorder. The applicant or property owner shall be responsible for paying all applicable recording fees.

(5) If the director finds that the proposed project does not meet the criteria and standards in section 30-303.i, the director will notify the applicant of the reasons for denial and notify the applicant of the opportunity to appeal the decision to the board.

5. *Relocation.*

   (a) *Application requirements.* A complete application for relocation will contain the following: signed application, location information, narrative, drawings, digital photos and the application fee as determined by the City.

   (b) *Application process.* The application process for relocation applications will follow the same process as for major alterations, as set forth in this section.

6. *Demolition.*

   (a) *Application process and requirements.* A complete application for demolition will contain the following: signed application, narrative, digital photos, additional documentation as requested and the application fee as determined by the City.

   (b) *Application process.* The application process for demolition applications will follow the same process as for major alterations, as set forth in this section.

7. *Emergencies.* In the event of an emergency, as defined in section 30-302, owners shall perform necessary measures to preserve the property and notify the director within three days of the emergency event. Owners shall make efforts to document the damage and provide that documentation, including photos and the measures done to preserve the structure, to the director to assist in establishing the proper treatment for the property and to obtain a certificate of approval if necessary.

8. *Requirement of maintenance to prevent demolition by neglect.*

   (a) The owner of a designated property and owners of properties in a historic district must perform reasonable maintenance of the properties, as that term is defined in section 30-302.

   (b) The owner of a designated property and owners of properties in a historic district shall not commit demolition by neglect, as that term is defined in section 30-302.

   (c) Noncompliance with this subsection will be punishable in accordance with other violations of this section, the same as for violations that are sanctioned administratively as Code infractions, pursuant to Chapter 1, Section 1-21 of this Code, and shall proceed as set forth in section 30-19.

i. *Criteria for certificate of approval.*

1. *Alterations.* Criteria and standards for alterations to a designated property or a property in a historic district are as follows:

   (a) The effect of the alteration or construction upon the general historical or architectural character of the designated property.

   (b) The architectural style, arrangement, texture and materials of existing and proposed construction, and their relationship to the other buildings.

   (c) The effects of the proposed work in creating, changing or destroying the exterior architectural features and details of the structure upon which the work shall be done.

   (d) The compatibility of accessory structures and fences with the main structure on the site and with adjoining structures.

   (e) The effect of the proposed work upon the protection, enhancement, perpetuation and use of the landmark or landmark district.

   (f) Compliance with the current Secretary of the Interior's Standards for the Rehabilitation of Historic Properties, as defined in section 30-302.

(g) If the property is a noncontributing property in a historic district, then alterations will be in accordance with the district designation plan as recommended by the board and approved by city council.

(h) Other requirements for alterations of a designated property or contributing property in a district as are required by the procedures and bylaws established by the board.

2. *Relocation.* Criteria for relocation of a designated property or contributing properties in a district are as follows:

(a) In all cases, it shall be the preference of the board to keep structures at their original sites.

(b) For relocation applications, the board shall consider the following criteria in addition to those described for alterations:

(1) Original site.

i. Documentation showing that the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property.

ii. The significance of the structure as it relates to its present setting.

iii. When a governmental entity exercises power of eminent domain, the board should first consider relocating before demolishing.

iv. Whether the structure can be moved without significant damage to its physical integrity, and the applicant can show that the relocation activity is the best preservation method for the character and integrity of the structure.

v. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting.

vi. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(2) New location.

i. Whether the building or structure is compatible with its proposed site and adjacent properties and if the receiving site is compatible in nature with the structure proposed to be moved.

ii. Whether the structure's architectural integrity is consistent with the character of the neighborhood.

iii. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site.

iv. Whether the proposed relocation is in compliance with all city ordinances.

3. *Demolition.* Criteria for demolition of a designated property or contributing property in a district. A permit for demolition shall be issued if the applicant can clearly demonstrate that the designated property meets the criteria for demolition as set forth under this section by balancing the criteria of subsections (a) through (d) below versus (e). Not all of the criteria must be met for the board to recommend demolition. Appeals of the decision shall be made under section 30-19.

(a) The structure must be demolished because it presents an imminent hazard.

(b) The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure.

(c) The structure cannot be rehabilitated or reused on site to provide for any reasonable beneficial use of the property.

(d) The structure cannot be moved to another site because it is physically or economically impractical.

(e) The applicant demonstrates that the proposal mitigates to the greatest extent practicable the following:

(1) Significant impacts that negatively alter the visual character of the neighborhood where demolition is proposed to occur.

(2) Significant impact on the historical importance of other structures located on the property and adjacent properties.

(3) Significant impact to the architectural integrity of other structures located on the property and adjacent properties.

(f) If partial demolition is approved by the board and is required for the renovation, restoration or rehabilitation of the structure, the owner should mitigate, to the greatest extent possible:

(1) Impacts on the historical importance of the structure or structures located on the property.

(2) Impacts on the architectural integrity of the structure or structures located on the property.

j. *Removal from historic register/hardship exemptions.* City council may remove the designation of a historically designated property or district if it finds that historic designation creates an undue hardship in accordance with the criteria in this section. If a request to the board for a certificate of approval does not conform to the applicable criteria, an applicant may request an exemption from the certificate requirements, provided that the intent and purpose of this section are not significantly eroded, and provided that adequate documentation is submitted to the board either in writing or by testimony to establish qualification for one of the following exemptions. Such documentation or testimony must be substantiated by professional opinion or thorough explanation of how the information was obtained.

1. *Economic hardship exemption.* An economic hardship exemption may be granted if:

(a) The owner is unable to obtain a reasonable return on investment in the property's present condition or in a rehabilitated condition.

(b) For non-income-producing properties, the owner is unable to resell the property in its current condition or if rehabilitated.

(c) The economic hardship claimed is not self-imposed, including from lack of maintenance.

2. *Health/safety hardship exemption.* To qualify for undue hardship, the applicant must demonstrate that the application of criteria creates a situation substantially inadequate to meet the applicant's needs because of health and/or safety considerations.

3. *Inability to use exemption.*

(a) If no sale can be made or no feasible use is found for the structure within two years of denial of a permit, the owner may request a waiver of all or part of the process described above.

(b) In determining the applicability of this section, the board shall include the following factors in its deliberations:

(1) Written documented evidence illustrating efforts by the owner to make repairs, find an appropriate use or sell the property.

(2) Written evidence of the owner's efforts to secure assistance for conforming the application with this section without demolition or defacement.

4. For the purpose of establishing and maintaining sound, stable and desirable historic districts within the City, the removal of historic designation is to be discouraged. This policy is based on the opinion of the city council that the city's historic districts and individually designated properties are the result of a detailed and comprehensive appraisal of the city's present and future needs regarding land use allocation and other considerations while supporting the city's historical significance; and, as such, the policy should not be amended unless to correct manifest errors or because of changed or changing conditions in a particular area of the city in general.

Sec. 30-304. Severability clause.

If any provision of this article, any provision of any rule or regulation lawfully promulgated hereunder or any application of this chapter or rule or regulation promulgated hereunder to any person or circumstance is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or applications of this article or rules or regulations. The city council hereby declares that, in these regards, the provisions of this Development Code and all rules and regulations promulgated hereunder are severable. In the event that any part of this article negatively affects the city's certified status as a certified local government by the National Park Service, then the conflicting provision shall be severable.