

CHAPTER 16

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ARTICLE 1

General Provisions

Sec. 16-1-10. Short title.

This Chapter and the map on which this Chapter is based shall be known as the Brush Zoning Code. (Prior code §25-1; Ord. 774-06 §1)

Sec. 16-1-20. Purpose.

(a) Generally. This Chapter has as its general purpose the promotion of the health, safety, morals and general welfare of the City.

(b) Specifically. This Chapter is in substantial accordance with the Brush Land Use Plan and is designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. This Chapter is made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City. (Prior code §25-2)

Sec. 16-1-30. Authority.

This Chapter is authorized by Sections 29-20-101 et seq., and 31-23-10 et seq., C.R.S., and is hereby declared to be in accordance with all provisions of those statutes. (Prior code §25-3; Ord. 774-06 §1)

Sec. 16-1-40. Applicability.

Except as hereinafter provided: (1) No building or structure may be erected, constructed, reconstructed, altered, repaired, moved or used unless in conformance with these regulations; and (2) no land may be used unless in conformance with these regulations; provided however, that any building, structure or land owned or under the control of the City by ownership, lease or otherwise shall be exempt from these regulations whenever the present or proposed situation of any such building, structure or land is reasonably necessary for the convenience or welfare of the public, as determined by the City Council by resolution or ordinance in each instance. (Prior code §25-4)

Sec. 16-1-50. Interpretation.

(a) 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 and welfare.

(b) Whenever the requirements of this Chapter are in conflict with the requirements of any other ordinance, rule, regulation, private covenant or deed restriction, the more restrictive or that imposing the higher standards shall govern. (Prior code §25-5)

Sec. 16-1-60. Definitions.

(a) Rules of language construction. For the purposes of this Chapter and when not inconsistent with the context:

- (1) Words used in the present tense include the future;
- (2) Words in the singular include the plural;
- (3) Words in the plural include the singular;
- (4) The masculine includes the feminine;
- (5) The word *shall* is mandatory and not directory;
- (6) The word *may* is permissive; and
- (7) The particular controls the general.

(b) Interpretation. Certain words and phrases are defined, and certain provisions shall be interpreted as herein set out, when not inconsistent with the context. The word *building* includes the word *structure*; the word *person* includes a *firm, associates, corporation, partnership* and *natural person*; the word *used* includes the words *occupied, arranged, designed* or *intended to be used*; the word *construct* includes the words *erect, reconstruct, alter, move in* and *move upon*.

(c) Terms defined:

Accessory buildings and uses means a use naturally and normally incidental to a use by right, and complying with all of the following conditions:

- a. Is clearly incidental and customary to and commonly associated with the operation of the use by right;
- b. Is operated and maintained under the same ownership as the use by right;
- c. Includes only those structures or structural features consistent with the use by right;
- d. Includes residential occupancy only by owners and employees employed on the premises and the immediate families of such owners or employees;
- e. The gross land area utilized by all accessory uses of all uses by right on the same property shall not exceed ten percent (10%) of the gross land area utilized by all the uses by right; and
- f. May include home occupations, as defined.

Alley means a minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Animal clinic means a veterinary establishment for the treatment of large and small animals on an outpatient basis only. No provisions are provided for overnight accommodations for the animals.

Animal hospital for large animals means a veterinary establishment whose purpose is to provide inpatient and outpatient services to animals such as cows, horses, buffalo, pigs, sheep, goats, donkeys, mules and other animals of similar size.

Animal hospital for small animals means a veterinary establishment whose purpose is to provide inpatient and outpatient services to animals such as cats, dogs and other small domestic animals.

Area, minimum lot means the total area within the property lines for the lot, excluding adjacent rights-of-way.

Auto salvage and wrecking means an open or enclosed area on which inoperative vehicles, machinery or related materials of any type are stored or dismantled.

Basement means a story having part, but not more than one-half (½) of its height below grade.

Boarding and rooming house means a building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three (3) or more persons, but not exceeding twenty (20) persons; provided that such persons are not members of the owner or operator's immediate family.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind and not including advertising sign boards or fences.

Building height means the vertical distance as measured from the average finished grade (see *grade*) at the building to the highest point of the roof surface exclusive of ventilators, pipes, spires, cupolas, chimneys or other appurtenances.

Building Inspector means the Building Inspector of the City.

Cellar means a space in a building having all or more than one-half (½) of its height below grade.

Commission means the City Planning Commission.

Courts and court yards mean open, unoccupied spaces which are wholly or partially enclosed.

Disinfection means a method of treating sewage in compliance with at least the following minimum standards:

- a. That chlorine is used for a minimum contact time of fifteen (15) minutes;

b. That the chlorine residual remaining after the contract period is not less than one-half (0.5) mg/liter;

c. Any method or combination of methods reducing the organisms pathogenic to human beings.

District means a section or sections of the City for which regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

Domestic animals means animals confined primarily for the purpose of pleasure rather than monetary gain.

Dwelling, multiple-family means a building occupied by two (2) or more families living independently of each other, but not including motels or hotels.

Dwelling, single-family means a building having accommodations for and occupied exclusively by one (1) family.

Dwelling, two-family means a building having accommodations for and occupied exclusively by two (2) families living independently of each other.

Dwelling unit means any structure or part thereof, designed to be occupied as the living quarters of a single-family or housekeeping unit.

Family means a group of persons meeting the conditions in Subparagraph a. or b. below:

a. A group of persons living together as a single dwelling unit who are related by blood, marriage or adoption, and a reasonable number of domestic servants; or

b. A group of persons living together as a single dwelling or housekeeping unit and who share the use and cost of common facilities. This group of persons should generally exhibit the same characteristics of other families in the neighborhood in the use of neighborhood facilities and the amount of noise generated.

Feed lot (livestock confinement area) means a place where cattle, calves, sheep, swine, horses, mules, goats, fowl and other animals are corralled, penned, tethered or otherwise caused to remain in pens or corrals and where feeding is by other than grazing.

Grade (ground level) is determined by averaging the finished ground level of the center of each side of the building. When a building side is within fifteen (15) feet of a sidewalk, the grade used for that side shall be measured at a point at the sidewalk which is perpendicular to the center of the building side.

Gross leasable area means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

Home occupation means any use conducted principally within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof; provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing on the premises, and provided that such use does not occupy more than twenty-five percent (25%) of the total floor space of the dwelling unit.

Hospital means any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons, but not including sanitariums, clinics, rest homes, convalescent homes, nursing homes and homes for the aged.

Hotel and *motel* mean any building or portion thereof containing six (6) or more guests rooms used, designed to be used, let or hired out for occupancy by persons on a temporary basis.

Irrigation ditch or canal means a channel designed to transport irrigation water.

Kennel means a lot or premises on which four (4) or more dogs, at least four (4) months of age, are kept, possessed or harbored, whether or not for economic gain, or a lot or premises on which more than one (1) litter is born in any twelve-month period.

Laundromat means a building or premises where the public may wash in a machine of the home automatic type furnished by the establishment, as distinguished from a public laundry.

Laundry means a building or premises where public laundry work is done directly for the public, by cleaning and ironing soiled and used clothes on orders received from members of the public as customers.

Lot means a portion of a subdivision intended as a unit for transfer of property ownership or for development.

Mobile home means any vehicle or similar portable structure originally constructed to have no foundation other than wheels, jacks or skirtings and so designed or constructed to permit occupancy as living or sleeping quarters and having been issued a manufacturer's settlement of origin.

Mobile home park shall be defined as follows:

- a. Any tract of land on which three (3) or more mobile homes are parked;
- b. Any tract of land used commercially for parking space for one (1) or more transient mobile homes;
- c. Trailer sales areas shall not be considered mobile home parks;
- d. The use of occupancy of three (3) or fewer mobile homes on a farm or ranch by persons employed on or owning the farm or ranch shall not be considered a mobile home park.

Mobile home space means a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

Modular or manufactured home means any portable structure originally constructed to have no foundations other than facilities for placement or erection of the structure on site and designed or constructed to permit permanent occupancy as living quarters, and which must conform to the City Building Code. (Also see *dwelling unit*.)

Nonconforming building means a building or portion thereof legally built prior to the effective date of the initial ordinance codified herein or any amendment thereto, which does not conform with the regulations of the district in which it is located.

Nonconforming use means land or a building lawfully occupied prior to the effective date of the initial ordinance codified herein or any amendment thereto, by a use which does not conform with the regulations of the district in which it is located.

Nursing home means premises occupied by sick, infirm or convalescent persons who are attended by nurses caring for their physical and mental requirements.

Off-street parking space means the space required to park one (1) passenger vehicle.

Ordinance means the Brush Zoning Ordinance.

Permit means a document issued by the City, granting permission to perform an act or service which is regulated by the City.

Planned Unit Development (PUD) means a development of land in a manner which allows, in conformance with Article 5 of this Chapter, the following: variety of uses, in addition to those ordinarily allowed by right or by special exception use in the designated district, for which land may be developed in order to allow for uniqueness and overall flexibility of development in special instances as may be approved by the City Council.

Planning Commission means the Brush Planning Commission, also known as the *Brush Planning and Zoning Committee*.

Plat means a map of land thereon described and prepared as an instrument for recording with the City Clerk which depicts the boundaries of real estate interests.

Plat, preliminary means the preliminary map of a proposed subdivision, drawn and submitted in accordance with the requirements of these regulations.

Primary sewage treatment means removal of solids through a sedimentation process.

Professional office means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others, who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

Property line, also lot line, means the boundaries of a legally described land parcel.

Public hearing means a legally advertised meeting held by the Planning Commission, City Council or Board of Adjustment, at which time opinions may be voiced concerning the subject of the hearing.

Resort mobile home or tent camping park means any plot of ground which has been planned, improved or used for the placement of three (3) or more mobile homes for human habitation, and which furthermore, meets all of the following conditions:

- a. The principal business of the park is to supply parking spaces for mobile homes or tent camping whose occupants are engaged in recreational activities such as fishing, hunting, boating or camping;
- b. Mobile homes accommodated do not exceed forty (40) feet in length; and
- c. Mobile homes may be accommodated for no longer than three (3) consecutive months.

Right-of-way means the entire dedicated tract or strip of land a portion of which is to be used by the public for circulation or utilities.

Road. See *street*.

Secondary sewage treatment means a method of sewage treatment in which a minimum of eighty-five percent (85%) of the biochemical oxygen-consuming material is removed. (Also see *disinfection*.)

Setback means the distance extending across the full width or depth of the lot between the designated lot line and the nearest line or point of the building.

Sign face means the surface of a sign upon, against or through which the message is displayed or illustrated.

Simulcast racing with pari-mutuel wagering means a live, audiovisual broadcast, transmitted simultaneously with the performance of a live race of horses or greyhounds by either an out-of-state host track or in-state host track, which is received by a simulcast facility in this City and which is used for the handling of wagers placed on simulcast races received at such facility.

Small animal breeder facility means a facility for the breeding and production of small animals such as rabbits, guinea pigs, chinchillas, mice, rats, hamsters and gerbils (but specifically excluding dogs and cats and other animals prohibited under Section 7-7-20 of this Code), within an enclosed structure, which small animals are sold to scientific laboratories, pet stores, zoos and the like.

Special use (special exception use) means a use allowed in the indicated zoning district only with permission by the City Council. Permission for a special use may be granted or denied in accordance with the basic purposes and intent of this Chapter.

Street means any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way for the movement of vehicular traffic which is an existing state, county or municipal roadway, or a street or way shown upon a plat heretofore or hereafter dedicated, and which includes the land between street lines, whether improved or unimproved, and may be comprised of pavement, shoulders, gutters, sidewalks, parking areas and other areas within the right-of-way.

Structurally altered means changes which increase, extend or enlarge the building or convert the existing building into different structure or affect the form or character of an existing building or structural quality.

Usable open space means open area designed and developed for uses including, but not limited to, recreation, courts, gardens, parks and walkways. The term shall not include space devoted to streets and parking and loading areas.

Use by right means a use which is listed as a use permitted by right in any given zone district in this Chapter. Uses permitted by right are not required to show need for their location.

Wildlife preserve means a property where sanctuary is provided for nondomesticated animals through protective restrictions.

Yard means an open space on the same lot with a building, occupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front means a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the front lot line and the front of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch.

Yard, rear means a yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building including any projections to the steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side means a yard between the main building and the side line of the lot, being the minimum horizontal distance between the building and the side lot line and extending from the front lot line to the rear lot line. (Prior code §25-6; Ord. 774-06 §1)

ARTICLE 2

Zoning District Regulations

Sec. 16-2-10. Zoning map and boundaries of zone districts.

(a) The zone symbols and the boundaries of zone districts are shown on the accompanying map and are made a part hereof, being designated as the *Brush Zoning Map*. Such map and all notations, references and other information shown thereon are as much a part of these regulations as if the matters and information set forth by such map were fully described herein.

(b) In determining the boundaries of zone districts shown on the map, the following rules shall apply:

(1) Unless otherwise indicated, the zone boundaries are the centerlines of streets, roads, highways, alleys, railroad rights-of-way and channelized waterways, or such lines extended;

(2) In unsubdivided property, zone boundaries shall be determined by use of the scale on the map. A legal description acceptable to the Planning Commission shall be made available in the event of controversy arising concerning zone district boundaries;

(3) Where a district boundary is shown by a specific dimension as being located at any given distance from any right-of-way line, such specific dimension shall govern. (Prior code §25-7)

Sec. 16-2-20. Vacations.

Whenever any street, alley or other public way is vacated by official action of the City Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district. (Prior code §25-8)

Sec. 16-2-30. Zoning districts established.

In order to carry out the purpose of this Chapter, the City is hereby divided into the following districts:

AG	Agricultural
EP	Environmental Preservation
RE	Residential Estate
R-LD	Residential, Low Density
R-MD	Residential, Medium Density
R-MHD	Residential, Medium High Density
R-MH	Residential, Mobile Home
C	Commercial
CC	Commercial Core
I	Industrial

(Prior code §25-9)

Sec. 16-2-40. Purposes of each zoning district.

(a) The purpose of the AG Agricultural District is to identify and zone land which is most suitable for agricultural purposes due to soil quality, location, present land use and the availability of irrigation water. Density and setback regulations for the agricultural districts have been matched to present land use characteristics at the time of the enactment of the initial ordinance codified herein.

(b) The purpose of the EP Environmental Preservation District is to preserve areas of the City which perform important natural functions or which constitute natural hazard areas. Examples of areas suitable for an environmental preservation district are floodplains, undermined areas and major aquifer recharge areas. The allowed uses in the EP District are those uses, such as agriculture, where few people are exposed to the hazards and interference with the natural functions and interference with the natural functions is minimized.

(c) The purpose of the RE Residential Estate District is to provide a residential environment that retains a rural atmosphere because of large lots, generous setback and the allowance of certain agricultural uses such as horses. Suitable areas for inclusion in this district are generally located between agricultural land and the higher density residential areas.

(d) The purpose of the R-LD Residential, Low Density District is to identify and zone land for predominantly single-family use.

(e) The purpose of the R-MD Residential, Medium Density District is to provide a district which will allow a combination of single-family uses and multiple-family uses. It is anticipated that a large percentage of the multiple-family uses will be duplexes, triplexes, fourplexes and townhouses. The lot size should permit the utilization of single-family "patio homes." Criteria for locating this district include the location of the district close to the commercial areas and as a buffer between lower density single-family uses and the higher density multiple-family uses.

(f) The purpose of the R-MHD Residential, Medium High Density District is to provide a zoning district within which both townhouses and apartments can utilize areas of the City core for higher density uses.

(g) The purpose of the R-MH Residential, Mobile Home District is to provide spaces for mobile homes in an overall planned environment specifically tailored to the requirements of the mobile homes and their residents.

(h) The purpose of the C Commercial District is to provide a district for the location of regional and local commercial uses which require large amounts of parking area.

(i) The purpose of the CC Commercial Core District is to provide a zoning district for those commercial and residential uses which do not demand large amounts of parking space and are oriented to a rapid turnover of parking space use. Commercial uses in a CC District should be uses that tend to deliver services such as professional offices or to provide for smaller scale retail use which do not require extensive warehousing space for inventory storage. Residential uses in a CC District should generally be apartments ranging in size from a studio to a two-bedroom unit, located either on the upper floors of the commercial building or to the rear of the ground floor occupying no more than one-half (½) of the available ground level square footage and secondary to the primary commercial use. The facade and general appearance of the building should remain commercial in nature. Because of the compactness of the buildings in this district and the parcels on which they are situated, off-street parking for residential use will necessarily be limited but nevertheless required, with the intention that all space available for parking be utilized to its maximum potential. The commercial and residential uses should complement one another in such a way as to provide a pleasant living experience and effective commercial operations in a CC District.

(j) It is recognized that the City is a small city and any industrial operation which would be located in the City limits would be in close proximity to both residential areas and commercial areas. Accordingly, the purpose of the I Industrial District is to provide a zone in which industrial and manufacturing operations may locate as a right when their operations do not constitute a detriment to the public health or welfare by reason of smoke, radiation, noise, dust, odor, gas, glare, vibration, particulate matter or water pollution; and to provide a location for industrial and manufacturing operations by special exception use permit when the operation is such that by reason of any of the foregoing, it may not be appropriate in the particular location in which it chooses to operate, or may require certain safeguards to be appropriate. (Prior code §25-10; Ord. 774-06 §1)

Sec. 16-2-50. Use classifications.

(a) Use by right. A use by right is a use allowed in a district without special conditions other than those imposed upon other uses by right in the zone and specifically authorized by a building permit. A use by right requires no further approval from the City Council.

(b) Special exception use. A special exception use requires the issuance of a special exception use permit (see Article 4). A special exception use is a use which the City Council finds is essentially desirable to the community but the indiscriminate allowance of which use within a district or districts could cause traffic congestion, noise and general deleterious effects on the values, safety or health of the community. Therefore, the City Council considers each special exception use on an individual basis with emphasis on the consideration of conditions of the specific site and its environs, and the specification of adequate and sufficient safeguards to ameliorate the impact of the use. (Prior code §25-11)

Sec. 16-2-60. Use schedules for zoning districts.

(a) The following schedule of permitted uses for the various districts are hereby adopted and declared to be a part of this Chapter, and may be amended in the same manner as any other part of this Chapter. In each zoning district except industrial districts, any use category not expressly permitted shall be deemed excluded.

(b) There shall be allowed in the industrial district as uses of right all uses ordinarily cognizable as industrial, and which are not otherwise specifically provided for in the following schedule, which said uses are not noxious, dangerous, offensive or detrimental to the public health and welfare by reason of smoke, radiation, noise, dust, odor, gas, glare, vibration, particulate matter or water pollution. Any activity which would be noxious, detrimental, etc., shall require a special exception use permit.

(c) The City administration is authorized and hereby directed to promulgate regulations determining whether items are noxious, dangerous, offensive or detrimental; and in doing so, the administration shall be guided by the regulations and standards promulgated by the Colorado Department of Public Health and Environment for a commercial zone, and the Environmental Protection Agency. It is recognized that the standards set forth by the Colorado Department of Public Health and Environment for a commercial zone would be appropriate to designate uses of right in an industrial zone of a city of this size.

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S
AGRICULTURAL FACILITIES:																				
Farming, Ranching & General Agricultural Crops	X		X																	
Nurseries & Greenhouses	X			X																X
Processing of Ag. Products (coml.)																				X
Ranch Offices	X																			
Roadside Stands	X																			
EDUCATIONAL FACILITIES:																				
Preschool Care & Educational Center		X				X		X		X		X		X				X		
College & University Bldgs.		X				X		X		X		X		X				X		
Schools; Public & Parochial		X				X		X		X		X		X				X		
Schools; Private		X				X		X		X		X		X				X		
Schools; Vocational-Technical		X																		X
ENTERTAINMENT FACILITIES:																				
Auditorium, Indoor Theaters															X		X			

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S
INDUSTRIAL (Cont'd):																				
Grave and Sand Excavating & Quarrying Operations																				X
Iron & Steel Mills																				X
Laboratories																		X		
Light & Power Plants																				X
Milling & Smelting Processes																				X
Mobile Home Sales																				X
Oil or Mineral Production																				X
Petroleum Refining																				X
Salvage Yards or Junk Yards																				X
Slaughtering, Butchering or Rendering Plants																				X
Warehousing or Storage of any Explosive or Highly Flammable Materials or Devices																				X
Warehousing or Storage of any Items not Enclosed																				X
MANUFACTURING FACILITIES:																				
Cabinet Making & Carpentry Shops															X		X	X		
Industrial-Scientific Research, Manufacturing, Compounding, Fabrication, Assembling, Processing or Treatment of Products, Food & Beverage Processing or Similar Types of Use																		X		
Machine Shop																		X		
Small Animal Breeder Facility		X												X						X
Warehouses (Storing																		X		

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S
Goods Connected with an Industrial Operation)																				
	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S
MINING OF RESOURCES:																				
Extractive Land Use		X		X																X
Oil & Gas Drilling Facilities		X		X																X
PUBLIC OR QUASI-PUBLIC FACILITIES:																				
Cemeteries	X				X		X		X		X		X							
Churches & Related Uses					X		X		X		X		X							
Civic, Youth, Social & Fraternal Org.		X				X		X							X				X	
Detention Facilities																				X
Fairgrounds	X																			
Fire & Police Stations	X				X			X		X						X				
Governmental Offices															X	X				
Homes for the Aged		X			X		X		X		X									
Nursing Homes		X			X		X		X		X									
Hospitals		X			X		X		X		X									
Libraries & Museums					X		X		X		X		X		X	X				
Medical & Dental Clinics						X		X		X		X		X	X		X			
Sanitariums, Mental Institutions						X	X													
RESIDENTIAL FACILITIES, Temporary & Full-Time																				
Dwelling Unit																				
– Hired Personnel Only		X				X		X		X		X		X		X		X		X
– Mobile Home													X							
– Multiple-Family									X		X				X		X			
– Single-Family	X				X		X		X		X				X		X			
– Two-Family								X	X		X				X					
Home Occupations		X				X		X		X		X		X		X		X		
Hotel & Motel														X		X				
Dwelling Unit – Modular	X				X		X		X		X				X		X			

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S
Rooming & Boarding Houses										X	X					X				
Fraternity & Sorority Houses										X		X								
Tourist Home										X		X			X		X			

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S

STORES FOR GOODS SALE ONLY:																				
Bakery																X		X		
Book, Hobby, Toy, Music																X		X		
Building Materials Supply																	X		X	
Convenience Stores										X		X				X		X		
Department, Dry Goods & Variety Florists																				
Frozen Food Lockers, not Including Slaughtering on the Premises																				
Furniture																X		X		
Hardware																X		X		
Liquor																X		X		
Mail Order																X		X		X
Mobile Home Sales																	X			X
Music, Radio & Television																X		X		
Novelty, Curio, Antique & Souvenir																X		X		
Paint																X		X		
Pet Shop																X		X		
Shoe																X		X		
Sporting Goods																X		X		
Second-Hand																X		X		

STORES FOR GOODS SALES & SERVICES:																				
Agri. Equipment Sales & Services																X			X	X
Auto Accessory Parts & Repair																X		X		
Auto Sales & Service																X		X		X

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I		
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	
Auto Salvage & Wrecking																					X
Electrical & Household Appliance														X			X				
Electrical, Heating, Painting, Plumbing & Ventilating														X			X			X	

	AG		EP		RE		R-LD		R-MD		R-MHD		R-MH		C		CC		I	
	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S	R	S

STORES FOR GOODS SALES & SERVICES (Cont'd):

Photographic Equipment															X		X				
Printing, Photocopying & Blueprint															X		X			X	
Printing – Metropolitan Arch Type															X		X			X	

STORES FOR SERVICES ONLY:

Animal Clinic		X				X										X					
Animal Hospital for Large Animals		X				X															X
Animal Hospital for Small Animals		X				X										X					X
Auto Service Station & Garage															X		X			X	
Auto Wash & Polish															X		X			X	
Banks															X		X				
Barber Shops, Beauty Shops															X		X				
Equipment Rental															X		X			X	
Insurance, Real Estate, Investment																	X				
Kennel		X				X										X					X
Laundry															X		X			X	
Laundromat										X		X		X	X		X				
Dry Cleaning															X		X			X	
Mortuaries										X		X				X			X		
Professional & Accounting Offices												X			X		X				
Shoe Repair															X		X				
Travel Bureaus															X		X				

	<i>AG</i>		<i>EP</i>		<i>RE</i>		<i>R-LD</i>		<i>R-MD</i>		<i>R-MHD</i>		<i>R-MH</i>		<i>C</i>		<i>CC</i>		<i>I</i>	
	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>	<i>R</i>	<i>S</i>
Keeping of Pets & Domestic Animals	X		X		X		X		X		X		X		X		X		X	
Planned Unit Development		X		X		X		X		X		X		X		X		X		X

R = Use by Right
S = Special Exception Use

(d) If a question arises as to whether a specific use does or does not come within the following expressed use categories, any person may apply to the Board of Adjustment for a determination as to whether a specific use is expressly permitted. Furthermore, should any person disagree with the ruling of the Zoning Administrator concerning whether a particular industrial activity requires a special exception use permit or is a use as of right, that person may apply to the Board of Adjustment for a determination.

	<i>AG</i>	<i>EP</i>	<i>RE</i>	<i>R-LD</i>	<i>R-MD</i>	<i>R-MHD</i>	<i>R-MH</i>	<i>C</i>	<i>CC</i>	<i>I</i>
A. Minimum Lot Area	40 acres	40 acres	1 acre	7500 sq. ft.	4500 sq. ft.	3000 sq. ft.	4500 sq. ft.	6000 sq. ft.	6000 sq. ft.	6000 sq. ft.
B. Minimum Usable Open Space per Dwelling Unit (sq. ft) *	N/A	N/A	N/A	6000	1800	1000	1800	N/A	N/A	N/A
C. Minimum Setbacks from Lot Lines:										
(1) Front	25	25	25	20	20	20	20	20	0	25
(2) Rear	15	15	15	15	15	10	10	20	15	40
(3) Side	10	10	10	5	5	5	5	10	0	20
D. Maximum Bldg. Height	35	35	35	35	35	35	35	45	45	45

* See the Supplementary Regulations
NA = Not Applicable

(Prior code §25-12; Ord. 774-06 §1)

ARTICLE 3

Nonconforming Uses and Buildings

Sec. 16-3-10. Nonconformance.

Certain uses of land and buildings may be found to be in existence at the time this Chapter takes effect which do not meet the requirements of the Chapter. It is the intent of this Article to allow the continuance of such nonconforming use upon the terms and conditions set forth hereafter. (Prior code §25-13)

Sec. 16-3-20. Expansion or enlargement.

(a) A nonconforming building to be extended or enlarged shall conform with the provisions of this Chapter.

(b) A nonconforming activity may be extended throughout any part of a building which was arranged or designed for such activity prior to the enactment of this Chapter. (Prior code §25-14)

Sec. 16-3-30. Repairs and maintenance.

The following changes or alterations may be made to a nonconforming building or to a conforming building housing a nonconforming use:

(1) Maintenance repairs that are needed to maintain the good condition of a building; except that if a building has been officially condemned, it may not be restored under this provision; or

(2) Any structural alteration that would reduce the degree of nonconformance or change the use to a conforming use. (Prior code §25-15)

Sec. 16-3-40. Restoration or replacement.

(a) If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire activity, it shall be restored only in compliance with the requirements of this Chapter.

(b) If a nonconforming building is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five percent (75%) of the cost of reconstructing the entire structure, it shall be restored only in compliance with the requirements of this Chapter.

(c) Where a conforming building devoted to a nonconforming activity is damaged less than fifty percent (50%) of the cost of reconstructing the entire structure or where a nonconforming building is damaged less than seventy-five percent (75%) of the cost of reconstructing the entire structure, either may be repaired or restored; provided that any such repair or restoration is started within twelve (12) months and is completed within eighteen (18) months from the date of partial destruction.

(d) The cost of land or any factors other than the cost of the structure are included in the determination of cost of restoration for any building or activity devoted to a nonconforming use.

(e) The provisions of Subsections (a), (b), (c) and (d) above shall not apply to nonconforming residential uses in commercial, commercial core and industrial zoning districts. Such uses may be repaired or restored irrespective of the extent of damage if such repair or restoration is commenced within twelve (12) months and is completed within eighteen (18) months from the date of damage. (Prior code §25-16)

Sec. 16-3-50. Discontinuance.

Whenever a nonconforming use has been discontinued for a period of twelve (12) months, it shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Chapter. (Prior code §25-17)

Sec. 16-3-60. Nonconforming lots.

Nonconforming lots on record at the time of passage of this Chapter may be built upon if all other relevant district requirements are met and the approval of the Board of Adjustment is obtained. (Prior code §25-18)

Sec. 16-3-70. Change in nonconforming use.

No nonconforming use of a building or lot may be changed to another nonconforming use. A nonconforming use of a building or lot may be changed to a conforming use. (Prior code §25-19)

Sec. 16-3-80. Construction prior to effective date.

Nothing herein shall require any change in plans, construction or designated use of a building or structure for which approval of the City Council has been obtained prior to the effective date of the initial ordinance codified herein, and construction of which shall have been diligently prosecuted within three (3) months following the date of such approval and completed within twelve (12) months of the date of such approval. (Prior code §25-20)

Sec. 16-3-90. Special exceptions to provisions on expansion of nonconforming uses.

The Board of Adjustment may authorize, upon appeal in specific cases, an exception permitting an increase in either or both the land area or the floor area of a structure occupied by a nonconforming use, subject to terms and conditions fixed by the Board of Adjustment. Every exception authorized hereunder shall be personal to the applicant therefor and shall not be transferable, shall run with the land only after the construction of any authorized structure and only for the life of such structure. No exception shall be authorized hereunder unless the Board of Adjustment finds that all the following conditions exist:

- (1) That the use is a nonconforming use as defined by this Chapter and is in full compliance with all requirements of this Chapter applicable to nonconforming uses;

(2) That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Chapter regarding nonconforming uses will result in unnecessary hardship;

(3) That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district;

(4) That the exception will not alter the essential character of the district in which the property for which the exception is sought is located;

(5) That the exception will not weaken the general purposes of this Chapter or the regulations established herein for the specific district;

(6) That the exception will be in harmony with the spirit and purposes of this Chapter; and

(7) That the exception will not adversely affect the public health, safety or welfare. (Prior code §25-21)

ARTICLE 4

Special Exception Uses

Sec. 16-4-10. Special exception uses allowed by permit only.

The purpose of a special exception use is, in addition to the purposes set forth in Subsection 16-2-50(b) of this Chapter, first to recognize that there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case, and second, to allow review of such uses so that the City is assured that these uses are compatible with their locations and surrounding land uses and will further the purposes of this Chapter. Special exception uses, as designated under Article 2, may be allowed only following review and written permission by the City Council. (Prior code §25-22)

Sec. 16-4-20. Procedure for special exception use permits.

Application for a special exception use permit shall be submitted in writing to the City Council, upon forms which will be available at the municipal building, along with such evidence as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use according to this Chapter. Furthermore, said applicant shall set forth in his or her application and amply demonstrate that the use sought will be compatible with the surrounding districts and will be appropriate in the particular district for which it is being sought, and shall set forth all other relevant data upon which the City Council can make a determination that the use should be allowed, or should be allowed upon special conditions. Copies of all such applications shall be mailed to the City Attorney's office by the applicant at the time of filing with the City Clerk. (Prior code §25-23)

Sec. 16-4-30. Public notice and hearing.

Before acting upon a special exception use permit, the City Council shall hold a public hearing on the matter. Notice of such hearing shall be published once by the City Clerk at the expense of the

applicant in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing date. The applicant shall, at least fifteen (15) days prior to the scheduled hearing date, post a sign advising of the application and generally stating the character of the proposed use of the property, giving the time and place of the public hearing. Said sign shall be placed in a conspicuous spot and shall be legible from the nearest street. Proper publication and posting of the sign shall be the responsibility of the applicant. Failure to properly publicize as required hereunder shall mandate a denial of the application until such time as notification is properly made. (Prior code §25-24)

Sec. 16-4-40. Application fee.

The applicant shall tender with his or her application a fee of twenty-five dollars (\$25.00) per site, which fee shall be nonrefundable. It shall furthermore be the responsibility of the applicant to pay all reasonable administrative costs incurred by the City in acting upon the special exception use permit, which fee shall be paid prior to the issuance of the permit. (Prior code §25-25)

Sec. 16-4-50. Conditions.

The City Council may impose conditions on granting of the permit which must be complied with. Such conditions shall bear a reasonable relationship to the promotion of the health, safety and welfare of the people of the City and shall be designed to ameliorate the adverse impact, if any, of any particular proposed use and promote the best interests of the citizenry. (Prior code §25-26)

Sec. 16-4-60. Review and revocation of special exception use permit.

Noncompliance with any condition of any special exception use permit shall constitute grounds for the immediate revocation of the permit by the City Council. However, prior to any such revocation, the applicant shall be notified of the City Council's consideration of the revocation at least ten (10) days in advance of such consideration. Said notice may take the form of mailing to the applicant at his or her last known address, or any other form reasonably calculated to notify the applicant. Thereafter, the applicant shall be entitled to appear and cross-examine witnesses and present evidence in his or her behalf. In the event the special exception use permit is revoked, the applicant shall have thirty (30) days within which to apply to the District Court for relief as set forth in Rule 106 of the Colorado Rules of Civil Procedure, as it may be from time to time amended. (Prior code §25-27; Ord. 774-06 §1)

Sec. 16-4-70. Length of permit.

The permit shall be good only so long as the applicant remains the owner of the property; provided, however, that the applicant may own the property in co-tenancy with other persons or entities, and a transfer from the applicant to another person or entity which is substantially only a change in business form, as from a corporation to an individual, or from an individual to a corporation, etc., and in which the original owner is a general partner, a major shareholder, etc., may be made without losing the permit. However, the City Council, in its discretion, may provide that the permit may be transferred, together with a transfer or grant or other conveyance of the property for which the permit is sought, upon a showing that no changes would be made in any manner in the use of the property. Should such a transfer be granted upon these grounds, any subsequent change in the use would subject the permit to revocation in accordance with the procedure provided in Section 16-4-60 above. (Prior code §25-28)

Sec. 16-4-80. Disclaimer.

Approval by the City Council of a special exception use permit shall not be construed as an endorsement of the manner of operation, but simply as a finding that the use, if performed in the manner described by the applicant, would be in conformity with this Chapter. (Prior code §25-29)

ARTICLE 5

Planned Unit Development

Sec. 16-5-10. Definition.

Planned unit development (PUD) is an area of land, controlled by one (1) or more landowners to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restriction to the existing land use regulations. (Prior code §25-33)

Sec. 16-5-20. Purposes.

The purposes of this Article are as follows:

- (1) To provide for necessary commercial, recreational and educational facilities conveniently located to housing;
- (2) To provide for well-located, clean, safe and pleasant industrial sites involving a minimum of strain on transportation facilities;
- (3) To insure that the provisions of the zoning laws which direct the uniform treatment of dwelling type, bulk, density and open space within each zoning district will not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the zoning laws;
- (4) To encourage innovations in residential, commercial and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to such buildings;
- (5) To encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that resulting economics may inure to the benefit of those who need homes;
- (6) To lessen the burden of traffic on streets and highways;
- (7) To encourage the building of new towns incorporating the best features of modern design;
- (8) To conserve the value of the land;

(9) To provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and

(10) To encourage integrated planning in order to achieve the above purposes. (Prior code §25-34; Ord. 774-06 §1)

Sec. 16-5-30. Authorization.

Planned unit developments are authorized by Section 24-67-101 et seq., C.R.S., known as the *Planned Unit Development Act of 1972*. (Prior code §25-35)

Sec. 16-5-40. Reviewing body.

As provided in the Land Subdivision Ordinance of the City, primary responsibility for review of planned unit developments is with the Planning Commission. Final approval or disapproval of a planned unit development rests with the City Council. (Prior code §25-36)

Sec. 16-5-50. Development standards.

(a) See Article 4, Section 4-2 of the Land Subdivision Ordinance of the City for a list of planned unit development requirements, in addition to the standards and requirements listed below.

(b) A minimum of two (2) dwellings units, or equivalent, is necessary to constitute a planned unit development.

(c) Uses allowed in a planned unit development (PUD) shall be those uses allowed by right in the district within which the PUD wishes to locate. In addition, application can be made for additional uses when such uses are in conformance with the purposes of a PUD as described in Section 16-5-20 above. (Prior code §25-37; Ord. 774-06 §1)

Sec. 16-5-60. Enforcement and modifications of plan provisions.

(a) To further the mutual interest of the residents, occupants and owners of a planned unit development and of the public in the preservation of the integrity of the plan, the provisions of the plan relating to the use of land and the location of common open space shall run in favor of the City and shall be enforceable in law or in equity by the City without limitation on any powers or regulation otherwise granted by law.

(b) All provisions of the plan shall run in favor of the residents, occupants and owners of the planned unit development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan; and to that extent, such provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization designated in the plan to act on their behalf. However, no provisions of the plan shall be implied to exist in favor of residents, occupants and owners except as to those portions of the plan which have been finally approved.

(c) All those provisions of the plan authorized to be enforced by the City may be modified, removed or released by the City, subject to the following:

(1) No modification, removal or release of the provisions of the plan by the City shall affect the rights of the residents, occupants and owners of the planned unit development to maintain and enforce those provisions at law or equity as provided in Subsection (a) above;

(2) No substantial modification, removal or release of the provisions of the plan by the City shall be permitted except upon a finding by the City, following a public hearing called and held in accordance with the provisions of Article 4 of the Land Subdivision Ordinance of the City, that the modification, removal or release is consistent with the efficient development and preservation of the entire planned unit development, does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the planned unit development or the public interest, and is not granted solely to confer a special benefit upon any person;

(3) Residents and owners of the planned unit development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan; however, no such action shall affect the right of the City to enforce the provisions of the plan. (Prior code §25-38)

Sec. 16-5-70. Planned unit development designation on official zoning map.

Upon the approval of a planned unit development by the City Council pursuant to the requirements of Article 4 of the Land Subdivision Ordinance of the City, the area enclosed by the PUD shall be shown on the official zoning map as a PUD and shall be on file with the City Clerk, and such legal description shall determine the boundaries of the area subject to the PUD designation. (Prior code §25-39)

ARTICLE 6

Supplementary Regulations

Sec. 16-6-10. Off-street parking.

No building shall be erected or enlarged to the extent of increasing floor area by more than fifty percent (50%) or changed in use unless there is provided on the lot space for the parking of automobiles or trucks in accordance with the following minimum requirements:

(1) There shall be a minimum of two (2) parking spaces per single-family dwelling unit.

(2) There shall be a minimum of one and one-half (1½) parking spaces per multiple-family dwelling unit, except it is contemplated that a variance may be obtained from the Board of Adjustment in those parts of the CC District developed with layered commercial and multiple-family residential uses.

(3) The following are the minimum requirements for parking spaces to be maintained in connection with the structures and uses indicated below:

a. Bowling alley: Four (4) parking spaces for each alley, plus one (1) additional space for every four (4) employees;

b. Business, professional or public office building, banks and lending institutions: Three (3) parking spaces plus one (1) additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000);

c. Church: One (1) parking space for each six (6) seats in the main auditorium; twenty-two (22) inches of undivided seating shall constitute one (1) seat;

d. Civic, youth, social and fraternal organization: One (1) parking space for every four (4) members or one (1) space for every one hundred (100) square feet of gross floor area, whichever is greater;

e. Community center, library or museum: One (1) parking space for every two (2) employees plus one (1) parking space for each one thousand (1,000) square feet of gross floor area;

f. Elementary and junior high schools: One (1) parking space for every staff and faculty member or one (1) parking space for every eight (8) seats in the main auditorium, whichever is greater;

g. High school, college and university: One (1) parking space for every five (5) students, plus one (1) parking space for every staff and faculty member, plus sufficient off-street space for safe and convenient loading and unloading of students;

h. Hospital, sanitarium, nursing home, home for the aged or similar institutions: One (1) parking space for each three (3) beds;

i. Hotel, motel, lodge and inn: One (1) space per unit plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein;

j. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment: One (1) parking space for every two (2) employees on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith;

k. Market, grocery store, retail bakery and delicatessen: One (1) parking space for every one hundred (100) square feet of space dedicated exclusively to the sale and display of such merchandise, plus one (1) parking space for every two (2) employees;

l. Medical and dental clinics: Four (4) parking spaces per doctor engaged at the clinics, plus one (1) additional space for every two (2) employees;

m. Mortuary or funeral home: One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlors and individual funeral service rooms;

n. Restaurant, night club, cafe or similar recreation or amusement establishment: One (1) parking space for each one hundred (100) square feet of floor area;

o. Retail store or personal service establishment: One (1) parking space for each four hundred (400) square feet of floor area, plus one (1) parking space for every two (2) employees;

p. Rooming house, lodging house, fraternity or sorority: One (1) parking space for each two (2) beds;

q. Sports arena, stadium or gymnasium: One (1) parking space for each five (5) seats or seating spaces; and

r. Theater or auditorium: One (1) parking space for each five (5) seats or bench seating spaces.

(4) Outdoor or mixed facilities and combinations of any permitted uses shall have sufficient number of spaces that will, in the determination of the Planning Commission, make reasonable and adequate provision for the highest expected volume of users. Such determinations may be based on the following:

a. The designed capacity of the facilities;

b. A plan for concentration of parking with appropriate consideration of designed landscaping and relation to the surroundings; and

c. Times of operation of the various uses.

(5) Automobile parking design requirements are as follows:

<i>Angle of Parking</i>	<i>Direction of Parking</i>	<i>Width of Stall</i>	<i>Depth of Stall Perpendicular to Aisle</i>	<i>Width of Aisle</i>	<i>Unit Parking Depth</i>
30	Drive-in	9'	16.8'	9'	42.6'
40	Drive-in	9'	19.1'	11'	49.2'
60	Drive-in	9'	20'	17'	57'
90	Drive-in	9'	18'	24'	60'
90	Back-in	9'	18'	20'	56'

(6) Parking areas, whether open or enclosed, must be provided on the same lot containing the use for which they are required or, if on separate lots, parking areas must be held in unified ownership or control and located within three hundred (300) feet of the lot they serve in all residential districts and within five hundred (500) feet of the lot they serve in all business and industrial districts.

(7) An off-street parking space in a business or industrial district may be used jointly for more than one (1) use; provided that its occupancy ordinarily would not be during the same hours, and that a copy of a recorded agreement by owners involved in such joint use is presented to the Zoning Administrator.

(8) Access of a minimum width of ten (10) feet shall be provided to all off-street parking areas.

(9) Except for parking areas provided for single-family dwellings, all parking areas shall have a gravel, bottom-ash or similar permanent surface sufficient to allow unhindered passage of vehicles. A concrete or similar permanent surface is encouraged, but not required.

(10) Except for parking areas provided for single-family units, suitable curbs or barriers shall be provided to protect public sidewalks and to prevent parking in areas where parking is not permitted.

(11) All open off-street parking areas with five (5) or more spaces shall be screened from any adjoining residentially zoned lot by a solid fence or wall at least four (4) feet but not more than seven (7) feet in height or by a buffer strip at least four (4) feet wide planted with trees, shrubs or hedges forming a compact screen when fully grown and which shall be maintained in good condition at all times or replaced by a solid fence as herein required.

(12) Driveways parallel to public sidewalks must be separated from such walks by an eight-foot landscaped area or a solid wall at least three (3) feet in height.

(13) Wheel or bumper guards shall be located so that no part of any vehicle shall extend beyond the boundary lines of the parking area, intrude on pedestrian ways or come in contact with walls, fences or plantings. (Prior code §25-40; Ord. 774-06 §1)

Sec. 16-6-20. Additional height and area regulations.

(a) In the case of chimneys, radio and television towers, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, grain elevators, other necessary mechanical appurtenances and the like, the Planning Commission may allow such height exception; provided that:

(1) The Planning Commission holds a public hearing on the request for height exception, the time and place of which is advertised at least fifteen (15) days prior to such meeting time in a paper of general circulation within the City; and

(2) The Planning Commission considers the following factors when reviewing the request for a height exception:

- a. Provision for adequate light and air;
- b. Effect upon views from neighboring properties;
- c. Safety in case of structural collapse; and
- d. Provision for adequate fire fighting.

(b) Accessory buildings may be built in a required rear yard but such accessory building shall not occupy more than thirty percent (30%) of the area of a required rear yard and shall not be nearer than two (2) feet to any side or rear lot line; except that when a garage is entered from an alley at right

angles, it shall not be located closer than ten (10) feet to the alley line. If a garage is located closer than ten (10) feet to the main building, the garage shall be regarded as a part of the main building for the purposes of determining side and rear yards.

(c) No accessory buildings shall be built upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes except in those districts in which the use *living quarters for hired personnel* is specifically stated as an allowable use. The Building Inspector shall inspect any accessory building to be used for dwelling purposes in order to make a determination of its fitness for occupancy.

(d) Every part of a required yard shall be open to the sky, unobstructed by any structure, except for the projection of sills, belt course, cornices and ornamental features which are not to exceed two (2) feet and except for structures specifically built to produce shade, such as trellises.

(e) No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

(f) Open-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 Inspector for a distance of not more than five (5) feet and where the same are so placed as not to obstruct light and ventilation.

(g) An open, unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet.

(h) Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the floor level of the ground story may project into a required yard; provided that these projections are at least two (2) feet from the adjacent side lot line.

(i) For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one (1) building occupying one (1) lot.

(j) Where a lot or tract is used for farming or for a commercial or industrial purpose, more than one (1) main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

(k) In the event that a lot is to be occupied by a group of two (2) or more related buildings to be used for multiple dwelling, institutional, motel or hotel purposes, there may be more than one (1) main building on the lot; provided, however, that the open space between buildings that are parallel or within forty-five (45) degrees of being parallel shall have a minimum dimension of twenty (20) feet for one-story buildings, thirty (30) feet for two-story buildings, and forty (40) feet for three- or four-story buildings.

(l) Where an open space is more than fifty percent (50%) surrounded by a building, the minimum width of the open space shall be at least twenty (20) feet for one-story buildings, thirty (30) feet for two-story buildings, and forty (40) feet for three- or four-story buildings.

(m) Where lots have double frontage, the required front yards shall be provided on both streets.

(n) Corner lots shall provide at least the front yard setback on both streets upon which the lot fronts and the remaining setbacks shall at least provide the side yard setbacks as required for the zone in which the lot is located.

(o) Cemeteries shall have a minimum size of five (5) acres. (Prior code §25-41; Ord. 774-06 §1)

Sec. 16-6-30. Mobile home park regulations.

(Refer to existing mobile home park regulations.) (Prior code §25-42)

Sec. 16-6-40. Usable open space.

(a) Usable open space is land which is free of buildings, structures, parking lots and other substantial improvements.

(b) The following examples are listed by way of illustration to indicate what may be counted as usable open space within the meaning of this Section:

(1) Outdoor swimming pools, swimming pool areas, hard surface recreational areas and other recreational areas; provided that these areas are unenclosed except for fences, canopies, bath houses or other minor structures.

(2) Driveways that do not serve three (3) or more parking spaces.

(3) Roof gardens.

(4) Bike paths and sidewalks.

(c) The following examples are listed by way of illustration to indicate what may not be counted as usable open space within the meaning of this Section:

(1) Public or private rights-of-way for streets or highways.

(2) Area covered by a building, except for that portion which may be devoted to a roof garden.

(3) Open parking areas. (Prior code §25-43)

Sec. 16-6-50. Fences, hedges and walls.

(a) A fence, hedge, wall, column, pier, post or any similar type structure, or any combination of such structures, may be permitted in the required yards of the various districts, subject to the following conditions and requirements. It is intended that these conditions and requirements shall provide privacy, protection, screening and accenting of shrubs and landscaping, without unduly

interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles.

(b) All fences and walls are subject to Building Code requirements.

(c) It shall be the responsibility of the property owner to locate all property lines.

(d) No fence, hedge or wall may extend beyond or across a property line unless in joint agreement with the abutting property owner.

(e) No fence, hedge or wall shall be placed nearer than eighteen (18) inches to any public sidewalk.

(f) No barbed wire or other sharp, pointed or electrically charged fence shall be permitted, except as follows:

(1) Temporary fences on construction sites may be as high as required to protect the property during the period of construction and may have barbed wire not less than eight (8) feet above the ground.

(2) In the AG Agricultural District, barbed wire or an electrically charged fence may be permitted as an internal fence (i.e., not on the periphery of the property) used to contain livestock.

(3) In the I Industrial District, fences and walls, when set back at least twelve (12) feet from the front property line, may also have barbed wire not less than eight (8) feet above the ground.

(g) Fences, walls or compact hedges shall not exceed seven (7) feet in height. Height, including retaining walls or other structures, shall be measured as follows:

(1) In required yards abutting a street, it shall be the total effective height measured from the finished grade on the side nearest the street.

(2) In other required yards, it shall be the total effective height above the finished grade measured on the side nearest the abutting property.

(3) On property lines the height may be measured from the finished grade of either side when the abutting property owners are in joint agreement.

(h) Any fence, hedge or wall placed within fifteen (15) feet of the intersection of a public sidewalk (or proposed location of such walk) and an alley or driveway shall not restrict or obscure the visibility so as to constitute a traffic hazard.

(i) On corner lots, no fence, hedge, structure, wall or landscaping display shall interfere with the unobstructed view over thirty-six (36) inches above the nearest street in a restricted triangular area formed by the three (3) points established by:

(1) The intersection of the property lines at the corner; and

(2) By measuring thirty (30) feet back from this intersection on each property line; except that rail type fences not exceeding forty-two (42) inches in height, with not more than two (2) four-inch rails, mounted on a minimum number of four-inch posts, may be permitted in the restricted triangular area. (Prior code §25-44)

Sec. 16-6-60. Horses.

Riding horses for use of occupants of a lot and their guests may be kept as a permitted accessory use in the residential estate, agricultural and environmental preservation districts; provided that at least one (1) acre of pasture area is available on the same lot for each horse. (Prior code §25-45)

Sec. 16-6-70. Lighting fixtures.

Any light used for the illumination of parking areas, off-street loading areas, swimming pools or any other purpose must be arranged in such a manner as to meet the following conditions:

(1) Lights must be shielded so that the beams or rays of light will not shine directly onto abutting property.

(2) Neither the direct nor the reflected light from any light source may create a traffic hazard to operators of motor vehicles on public thoroughfares.

(3) No colored lights may be used at any location or in any manner so as to be confused with or construed as traffic control devices.

(4) No beacon lights or blinking, flashing or fluttering lights or other illuminated device which has a changing light intensity, brightness or color may be permitted in any district, except for temporary holiday displays. (Prior code §25-46)

Sec. 16-6-80. Swimming pools.

A swimming pool may be permitted in any district as an accessory use subject to the following additional requirements:

(1) No public or private swimming pool may be located in any required front yard or side yard abutting a street. No swimming pool shall be located closer than ten (10) feet to any side or rear lot.

(2) Every swimming pool must be completely surrounded by a fence or wall not less than forty-two (42) inches in height with no openings large enough to permit children to pass through other than gates or doors that can be fastened to protect against entry. A dwelling house or accessory building may be used as part of such required enclosure.

(3) All gates or doors opening through such enclosures must be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use. (Prior code §25-47)

ARTICLE 7

Signs

Sec. 16-7-10. Purpose.

The purpose of this Article is to regulate all exterior signs so as to protect property values, characters and aesthetics of various areas of the City, and to protect the health, safety and public welfare of the citizens. (Prior code §25-48)

Sec. 16-7-20. Intended use of sign.

Any sign placed on the ground or on a building for identification of the premises or for advertising an activity conducted therein or thereon shall be deemed to be accessory and incidental to such premises, building or use. It is intended that the type and size of the sign shall be appropriate to the lot, building or use to which it is bound and shall be reasonably adequate but not unreasonably excessive for the purpose of identification or advertisement. (Prior code §25-49)

Sec. 16-7-30. Permit required.

No person shall install, alter or replace any sign within the corporate limits of the City without first obtaining a sign permit from the Building Department, except in the case of those signs exempt from such requirement under the provisions of Section 16-7-60 below. (Prior code §25-50)

Sec. 16-7-40. Permit application and fee.

An application for sign permit shall be made upon forms provided by the City. Such application shall set forth the name and address of the owner of the lot on which the sign is located; the size, height, type and general description of the proposed sign; the zoning designation of the district where the sign will be located; the sign erector's name and address; and such other pertinent information deemed necessary by the Building Official to determine the sign's safety and conformity to this Article. There shall be paid at the time of application a sign permit fee calculated from the fee structure set forth in the Building Code adopted in Chapter 18 of this Code. (Prior code §25-51; Ord. 774-06 §1)

Sec. 16-7-50. Definitions.

For purposes of this Chapter, the following words shall have the meanings ascribed hereafter:

Legal nonconforming sign means any sign which is lawfully erected and maintained prior to the enactment of this Article.

Sign means any written announcement, declaration, demonstration, display, illustration, insignia or illumination used to identify a premises or to advertise or promote the interests of any person or commercial activity which is displayed or placed out of doors in view of the general public, and shall include every detached sign or billboard and every sign attached to or forming a component part of any marquee, canopy, awning, street clock, pole, parked vehicle or other object, whether stationary or movable. (Prior code §25-52; Ord. 774-06 §1)

Sec. 16-7-60. Exemption from required permit.

The following types of signs are exempt from the permit requirements of Section 16-7-30 above:

(1) Temporary display, meeting and event signs. Any banners, flags, pennants, streamers or balloons displayed during a grand opening, open house or parade; provided that such sign shall not cover more than ten percent (10%) of the street face of the building or structure to which it is related, is not closer than thirty (30) feet to a street intersection, and is placed on the lot to which it is related.

(2) Public signs. Any sign required by regulation, resolution, ordinance or statute of the federal, state, county or municipal government.

(3) Real estate signs. Any real estate signs advertising the sale or lease of a premises erected and used in accordance with the provisions of this Article.

(4) Rooms for rent signs. All signs advertising individual rooms for rent within a rooming house; provided that such signs do not exceed two (2) square feet of display area.

(5) Construction signs. Temporary signs erected and used in accordance with this Article that advertise the proposed new use of the premises and any signs that are necessary for safety placed on the premises or on a temporary protective fence around a work site.

(6) Political signs. Political or campaign signs no larger than thirty-two (32) square feet on behalf of candidates for public office or measures on election ballots; provided that such signs are erected on private property only, with the consent of the property owner, no earlier than two (2) months preceding the election related to the sign and are removed within ten (10) days following the election to which related; and provided further that no such signs are affixed to utility poles in any public property.

(7) House numbers and name plates. House numbers and name plates not exceeding two (2) square feet in area for each residential building.

(8) Signs on windows and doors. All signs painted on windows and doors of a building or structure. (Prior code §25-53)

Sec. 16-7-70. General provisions.

(a) No sign which by reason of its size, shape or color may be confused with or construed as a traffic control sign, signal or device shall be permitted in any zoning district in the City.

(b) No sign or sign structure that obstructs any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure shall be permitted in any zoning district in the City.

(c) Any sign or sign structure which may be or hereafter becomes rotted, unsafe, dilapidated or in a state of disrepair shall be repaired to the standards set forth in this Article or removed by the sign owner within ten (10) days of written notice of the Building Official.

(d) Whenever a business, industry or service using a sign is discontinued, the sign shall be removed by the owner within thirty (30) days of such discontinuance.

(e) No sign shall be attached to any utility pole or structure within any public right-of-way; provided, however, that a governmental entity shall be permitted to attach directional signs to light or traffic control poles.

(f) Except as specifically provided for in this Article, no sign shall project, overhang or otherwise be located on public property.

(g) No freestanding sign shall be closer than thirty (30) feet to any intersection. (Prior code §25-54)

Sec. 16-7-80. Permitted signs by zoning districts.

(a) The following table of permitted sign types by zoning districts shall control the siting of signs in the City:

ZONING DISTRICT

<i>Sign Type</i>	<i>AG</i>	<i>EP</i>	<i>R-LD</i>	<i>R-MHD</i>	<i>R-MH</i>	<i>PUD</i>	<i>RE</i>	<i>C</i>	<i>CC</i>	<i>I</i>
Animated								X	X	
Canopy								X	X	X
Wall	X	X	X	X	X	X	X	X	X	X
Freestanding	X							X	X	X
Home occupation	X	X	X	X	X					
Marquee								X	X	
Legal nonconforming	X	X	X	X	X	X	X	X	X	
Portable	X							X	X	X
Projecting								X	X	
Public	X	X	X	X	X	X	X	X	X	X
Temporary	X	X	X	X	X	X	X	X	X	X

X = type of zoning district

(b) Letters preceding the sign type refer to the following sign types and conditions for the erection and use of each:

(1) Animated (any sign which includes action or motion).

a. One (1) such sign is permitted per business.

b. Type of permitted sign:

1. Freestanding (a sign erected on a freestanding frame, mast or pole and not attached to any building);

2. Wall (a sign attached to or erected against a wall of a building, with a face parallel to the building wall and extending not more than one [1] foot therefrom);

3. Projecting (a sign, other than a wall sign, which is attached to and projects from a structural building face, with the area of double-faced projecting signs calculated on one [1] face of the sign only).

c. Maximum permitted size is sixty (60) square feet.

d. Maximum permitted height is twenty (20) feet for freestanding signs and the top of wall for projecting signs.

e. Minimum permitted setback from the property line is one (1) foot if the sign is six (6) feet or less in height; otherwise the minimum setback shall be the same as the height of the sign.

f. For a projecting sign, the maximum length of the sign from the wall to which it is attached is five (5) feet; provided that the sign shall not project over public property unless a minimum ground clearance of nine (9) feet is maintained; and in no event shall a projecting sign be closer than two (2) feet to the curb line.

(2) Canopy (a sign attached to or constructed in or on a building face over a public right-of-way and constructed of some durable materials such as metal, glass or plastic).

a. Use is limited to nonresidential areas.

b. Maximum permitted height above grade is twelve (12) feet.

c. Minimum permitted height above grade is nine (9) feet.

d. Maximum permitted size is thirty-two (32) square feet.

(3) Wall (see *wall* above).

a. Use is limited to multi-family and nonresidential structures only.

b. Maximum permitted number of signs per premises is one (1) per street frontage.

c. Maximum permitted size of each sign shall not exceed:

1. For C, CC and I Districts, two (2) square feet for each linear foot of building frontage;

2. For all other districts, one (1) square foot for each linear foot of building frontage.

- d. Maximum permitted height is the top of the wall to which the sign is attached.
- e. Maximum permitted projection from the wall surface is twelve (12) inches.
- f. Minimum permitted clearance above grade is nine (9) feet if located over any public property.

(4) Freestanding (see *freestanding* above).

- a. Use is limited to nonresidential areas only.
- b. Maximum permitted number is one (1) per street frontage, plus one (1) additional sign for street frontages in excess of five hundred (500) feet.

c. Maximum size for single-use building or structure is:

1. For buildings or structures with ground floor area up to one thousand (1,000) square feet, fifty (50) square feet.

2. For buildings with ground floor area over one thousand (1,000) square feet, fifty (50) square feet plus one (1) square foot of sign area for each two hundred (200) square feet of ground floor building area over one thousand (1,000) square feet, to a maximum sign area of seventy-five (75) square feet.

d. Maximum permitted size for buildings or structures having two (2) or more uses is:

1. Same as c.1. above.

2. Same as c.2. above.

3. Maximum permitted height is fifteen (15) feet for C and CC zones and twenty-five (25) feet in other districts where permitted.

4. Minimum setback from the property line is one (1) foot if the sign is six (6) feet or less in height; otherwise, the minimum setback shall be the same as the height of the sign.

(5) Home occupation (a sign identifying a use conducted principally within a family dwelling and carried on by the inhabitants thereof).

- a. Use is limited to residential areas only.
- b. Maximum permitted number of signs is one (1) per dwelling unit.
- c. Maximum permitted size is four (4) square feet.
- d. Type of sign shall be limited to a single-faced, unlighted wall sign.

(6) Marquee (any sign attached to or constructed in or on a marquee, a permanent roof-like shelter extending from part or all of the building face over a public right-of-way and constructed of durable materials such as metal, glass or plastic).

- a. Use is limited to theaters only.
- b. Maximum permitted size is one hundred fifty (150) square feet.
- c. Maximum number per building use is one (1).
- d. Maximum permitted height is the top of the exterior wall of the building or structure.
- e. Maximum projection of the marquee face shall be the curb line.
- f. Minimum permitted clearance above grade is nine (9) feet projecting over any public property.

(7) Legal nonconforming (see *legal nonconforming signs* in definitions).

a. Construction, enlargement, relocation, extension, replacement, reconstruction or alteration of a legal nonconforming sign to any extent is prohibited unless such sign is brought into compliance with this Article.

b. In the event that the use of a legal nonconforming sign is discontinued or abandoned for a period of six (6) consecutive months from the date of a documented inspection or from the date of a utility disconnect, the future use of such sign shall thereafter conform to the provisions of this Article.

c. A legal nonconforming sign that is damaged or destroyed to the extent of fifty percent (50%) of its value may not be reconstructed or repaired except in conformity with this Article; provided however, that any such sign damaged or destroyed to any extent by police-documented vandalism may be repaired or reconstructed to its original design within ninety (90) days, but not thereafter.

d. Normal maintenance shall be permitted on all existing legal nonconforming signs.

(8) Portable (any sign not permanently attached to the ground or a building or structure).

- a. Maximum permitted size is six (6) square feet.
- b. Maximum permitted number is one (1) per business use.
- c. Minimum setback from the property line is one (1) foot.
- d. Maximum permitted height is six (6) feet.
- e. The sign shall be securely anchored to the ground to prevent movement.

(9) Projecting (see *projecting* above).

a. Maximum permitted height is the roof line of the building to which it is attached.

b. Maximum permitted projection is five (5) feet, provided that the sign shall not project over public property unless a minimum clearance above grade of nine (9) feet is maintained, and in no event shall a sign project closer than two (2) feet to the curb line.

c. Maximum permitted size is fifty (50) square feet.

d. Maximum number of signs is one (1) per business use.

e. A projecting sign shall not be permitted on the same wall of a building or structure as a wall sign unless the wall sign is animated or there is more than one (1) use per building.

(10) Public (any sign intended primarily to promote items of general interest to the community or for traffic control and the like). As required or permitted by statute, ordinance or regulation.

(11) Temporary (see *temporary signs* in Paragraph 16-7-60(2) above).

a. Only the following types of such signs shall be permitted:

1. Construction sign of a maximum size of thirty-two (32) square feet.

2. Real estate auction or garage sale sign of maximum size of four (4) square feet.

b. Maximum permitted number is one (1) per street footage per lot.

c. Minimum setback from the property line is one (1) foot.

d. All such signs must be located on private property, only with the consent of the property owner.

e. All such signs must be removed within ten (10) days following the event described. (Prior code §25-55)

Sec. 16-7-90. Enforcement.

(a) Authority to inspect. All signs for which a permit is required shall be inspected after completion of construction, alteration, replacement or the like by the Building Official, and he or she shall be permitted to enter private property for such purpose.

(b) Maintenance required. All signs shall be maintained in a workmanlike manner and in good repair so as not to be distracting, unattractive, dangerous or a public nuisance and effectively serve the purpose for which they are intended.

(c) Noncomplying signs; notice of violation. Notice shall be given to the sign owner that a sign is not in compliance with the provisions of this Article, directing the sign owner to bring the sign into compliance or remove the same within ten (10) days of the notice.

(d) Contents of notice. The notice shall contain the following information:

(1) A plain concise statement of the action required to be taken and a citation to the section of this Code requiring such action;

(2) A statement of the time within which such action shall be completed;

(3) A statement that if the action is not completed within the required time, the City will cause the work to be done at the sign owner's expense, and the costs thereof, in addition to being an individual liability of the sign owner, shall become a lien upon the property and, if not paid when due, shall be certified to the County Treasurer for collection in the manner of other taxes.

(4) A statement that failure to perform the required action constitutes a violation of this Code and could subject the sign owner to a fine of up to three hundred dollars (\$300.00) for each day that a violation continues, in addition to any sums charged for work done.

(e) Manner of service. The notice shall be delivered personally to the sign owner or to any member of his or her family over the age of eighteen (18), at his or her usual place of residence or business. If the sign owner does not reside within the City, service may be done by mailing the notice to the sign owner at the last known address by certified mail, postage prepaid. Notice shall be deemed complete when placed in the United States mail. When service is by mail, an additional three (3) days shall be added to the minimum period of time within which the prescribed work shall be completed. If the sign owner cannot be found after reasonable diligence, then service may be completed by posting the premises, in which case no fine shall be imposed and the minimum time within which work must be completed shall be thirty (30) days. (Prior code §25-56; Ord. 774-06 §1)

Sec. 16-7-100. Interest on assessment.

Any sums assessed against a sign owner shall bear interest at the rate of ten percent (10%) per annum from the due date of such assessment until finally paid. (Prior code §25-57)

Sec. 16-7-110. Remedies cumulative.

All remedies provided for hereunder are cumulative and independent of one another. No waiver of any action hereunder shall constitute a waiver of any subsequent action hereunder. (Prior code §25-58)

Sec. 16-7-120. Appeal from decision of administrative official.

A denial of a permit under this Article or an order issued under this Article by an administrative official may be appealed to the Board of Adjustment. (Prior code §25-59)

Sec. 16-7-130. Appeal procedure.

All appeals to the Board of Adjustment shall be in accordance with the procedures provided in Section 16-8-60 of this Chapter. (Prior code §25-60)

ARTICLE 8

Administration

Sec. 16-8-10. Enforcement.

This Chapter hereby establishes and shall be enforced by an officer appointed by the City Council, to be known as the *Zoning Administrator*, who may also serve as the Building Inspector. (Prior code §25-61)

Sec. 16-8-20. Permits.

(a) No building or structure shall be erected, moved or structurally altered unless a building permit therefor has been issued by the Zoning Administrator. All permits shall be issued in conformance with the provisions of this Chapter and all other applicable Code provisions, except in those instances where a variance has been granted by the Board of Adjustment. All applications for permit shall be accompanied by a drawing showing the location of all improvements in relation to the lot and indicating the height of all structures.

(b) No utility or any type shall be constructed in any location in the City, nor shall any utility be installed, be "hooked up" or provide service to any structure until a permit has been issued by the Building Inspector; and no permit shall be issued unless the proposal is in full accordance with this Chapter, except in those instances where a variance has been granted by the Board of Adjustment. All applications for permits shall be accompanied by a map or drawing as may be applicable showing the location of the proposed utility or utility installation. (Prior code §25-62; Ord. 774-06 §1)

Sec. 16-8-30. Certificate of occupancy.

No building hereafter erected, moved or structurally altered, may be used or changed in use until a certificate of occupancy shall have been issued by the Zoning Administrator, stating that the entire building and proposed use thereof comply with the provisions of this Chapter. Such certificate may be combined with any certificate of occupancy required by the Building Code of the City. (Prior code §25-63)

Sec. 16-8-40. Fees.

The schedule of fees for building permits is available at the office of the Building Inspector. (Prior code §25-64)

Sec. 16-8-50. Records.

All building permits, application records, records of inspection and certificate of occupancy records shall be kept on file in the office of the Building Inspector and shall be available for inspection by the public. (Prior code §25-65)

Sec. 16-8-60. Board of Adjustment.

(a) Establishment. A Board of Adjustment is hereby established for the purpose of hearing and deciding appeals from and reviewing any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Chapter. The Board of Adjustment shall also hear and decide all matters referred to it or upon which it is required to pass under this Chapter.

(b) Membership. The Board of Adjustment shall consist of five (5) members who shall be appointed by the City Council for three-year terms.

(c) General duties of the Board of Adjustment.

(1) To meet at the call of the Chairman, or by the request of the Building Inspector or any party wishing to appeal the decision of the same;

(2) To adopt any rules necessary to transact the Board of Adjustment's business or to expedite its functions or powers so long as they are not inconsistent with the provisions of this Chapter;

(3) To keep minutes of the proceedings of each meeting, which shall be of public record and be filed in the office of the Board of Adjustment, which may designate the Building Inspector to keep such files;

(4) To permit the public to attend and to be heard at all of its meetings;

(5) To notify in writing the Building Inspector, the Zoning Administrator, the owner involved and the Planning Commission of all decisions made, resolutions passed, hearings scheduled or permits authorized;

(6) To publish or cause to be published notice of, or to cause the property to be posted at least fifteen (15) days prior to, the date of public hearings for variances to this Chapter as provided by law.

(d) Power. Upon appeals, the Board of Adjustment shall have the following powers:

(1) Appeals from decisions of administrative officials. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Chapter.

(2) Interpretation. To hear and decide requests for interpretation of this Chapter, including any uncertainty as to boundary location or meaning of wording, so long as this interpretation is not contrary to the purpose and intent of this Chapter.

(3) Adjustment of boundaries. Where a lot is divided by a zoning district boundary line, the Board of Adjustment may, on a one-time basis, adjust the boundary line for a distance of up to twenty-five (25) feet.

(4) Variances. To authorize upon appeal in specific cases variances from the terms of this Chapter where, by reason of exceptional narrowness, shallowness or slope of a specific piece of property at the time of enactment of this Chapter, or by reason of exceptional topographic condition of such piece of property, the strict application of any regulation enacted herein would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantial impairing of the intent and purposes of this Chapter.

(e) Procedure. The Board of Adjustment shall act in strict accordance with all of the applicable laws of the State and this Chapter.

(1) All appeals to the Board shall be in writing. All petitions for a variance shall be filed upon forms provided by the City and available at the municipal building. Copies of all appeals from petitions for variance shall be filed with the City Attorney. Every appeal shall indicate what provisions of this Chapter are involved, what relief from these provisions is being sought, and the grounds upon which such an appeal is being sought, as required above. In addition, when an appeal is being sought of the actions of any administrative official, the applicant must file with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(2) An appeal stays all proceeding in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(3) The fee for the petition for a variance shall be twenty-five dollars (\$25.00). This fee, plus any supporting materials requested by the Board of Adjustment for evaluation of the petition for a variance, shall be submitted before a date for a hearing on the petition shall be set. A minimum of fifteen (15) days shall have elapsed between the petition submission date and the scheduled date of the hearing.

(4) Notice of the hearing date shall be published at the expense of the applicant, in a newspaper of general circulation in the City, at least fifteen (15) days prior to the scheduled hearing date. In addition, written notice of the public hearing shall be delivered or mailed, first

class postage prepaid, at least fifteen (15) days prior to the public hearing to landowners within three hundred (300) feet of the subject property as well as to the property owner. Failure to mail such notice to every property owner shall not affect the validity of any proceeding before the Board of Adjustment. The above notices shall state the name of the petitioner, the description of the property involved, a statement of the nature of the request and the time and place of the meeting.

(5) At least fifteen (15) days prior to any public hearing at which a variance to this Chapter is to be considered where a property is involved, the property owner shall post a sign upon the premises where such variance is requested stating the time, place and nature of the variance requested.

(6) At the hearing, any party may appear in person, by agent or by attorney.

(7) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

(8) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency or to decide in favor of the applicant any matter upon which it is required to pass under any Code provision or ordinance or to affect any variation in such Code provision or ordinance.

(f) Appeals from the Board. Any further appeal from the decision of the Board of Adjustment may be made to the courts, as provided by law; provided, however, that such appeal is made prior to thirty (30) days following the date of the notification of the Board of Adjustment's decision. (Prior code §25-66; Ord. 774-06 §1)

ARTICLE 9

Amendments

Sec. 16-9-10. Zoning designation of newly annexed lands.

(a) Any person may, contemporaneously with or subsequent to the filing of a petition for annexation, file with the City Council a petition requesting a certain zoning designation for the parcel of land for which annexation is sought.

(1) The petition shall set forth the grounds upon which the petitioner relies in justifying the designation sought, and shall state why such designation is the most appropriate designation.

(2) The petition shall immediately be referred to the Planning Commission for its review and recommendation.

(b) In the event that no petition is received by the City Council within fifteen (15) days after the passage of a resolution of intent to annex, the City Council shall refer the matter to the Planning Commission for its recommendation concerning zoning for the proposed annexation.

(c) Upon receipt of the referral from the City Council, the Planning Commission shall place the consideration of the zoning of the newly annexed territory upon the agenda of its next regular meeting. It shall thereafter submit a written recommendation to the City Council within five (5) days of said meeting. Prior to the adoption on final reading of any ordinance zoning newly annexed land, the City Council shall hold a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard. Notice of such hearing shall be published in a newspaper of general circulation at least fifteen (15) days prior to the date of the hearing, shall describe the time, place and nature of the hearing, and shall describe the property to be affected with sufficient particularity to identify it. All such amendments shall be effected by ordinance passed by a majority of the members of the City Council. No such ordinance may be adopted on final reading prior to the adoption on final reading of the ordinance annexing the property to be zoned. (Prior code §25-70)

Sec. 16-9-20. Council-initiated changes to Chapter or zoning map.

(a) Amendments to this Chapter or the zoning map, which terms are herein used interchangeably, other than those amendments set forth in Section 16-9-10 above, may be proposed by the City Council or shall, prior to holding a public hearing thereon and prior to passage of the amendatory ordinance upon final reading, refer the matter to the Planning Commission for its review and recommendation. The matter shall be placed upon the Planning Commission's agenda for its next regular meeting and recommendations shall be made to the City Council within five (5) days thereafter.

(b) If the matter is proposed originally by the Planning Commission, the City Council shall receive the same and, in its discretion, may hold a public hearing thereon and may proceed to first reading of an ordinance without any further referral to the Planning Commission.

(c) Any such amendment shall be by ordinance adopted upon final reading at any time subsequent to public hearing upon the proposed change, notice of which hearing shall be published at least fifteen (15) days prior thereto in a newspaper of general circulation within the City. The notice shall state the time, place and purpose of the hearing, and shall describe in general terms the amendment to be considered and, in a case effecting a change of zoning designation for any land, shall describe the land sufficiently to identify it. (Prior code §25-71)

Sec. 16-9-30. Amendments to existing zoning districts initiated by persons or entities other than Planning Commission or City Council.

(a) Any person with an ownership interest, either legal or equitable, within the City, may petition the City Council for a change in zoning designation thereof. The petition shall contain the following information:

- (1) The name, address and nature of interest of the applicant;
- (2) A legal description of the property for which the change is sought;

- (3) A statement of the property's present designation;
- (4) A statement of the present use of the property;
- (5) A statement of the proposed use of the property subsequent to the change; and
- (6) A detailed statement of the grounds upon which the petitioner relies to establish the necessity for a zoning change.

(b) There shall be attached to the petition the following data:

(1) Such data as shall be required by rules and regulations to be drawn by the City Administrator or his or her staff, which regulations shall be designed to provide the City Council sufficient information upon which to base a decision as to the necessity, propriety and advisability of a zoning change. It may include such items as the proposed method of water supply and sewage disposal, site plans and drawings, drainage reports, fire hazard reports, etc.

(2) Such other data or materials as may be reasonably required by the City Council to assist it in arriving at a proper decision upon the petition.

(c) At such time as the petition is deemed complete and all required data is attached thereto, the petition and attachment shall be referred to the Planning Commission for its review and recommendation. The matter shall be placed upon the agenda of the next regular meeting of the Planning Commission and recommendations shall be made to the City Council within five (5) days thereafter.

(d) Any time subsequent to the receipt of the recommendation by the Planning Commission, the City Council, if it deems it advisable to proceed further upon the petition, may set the matter for a public hearing. Notice of such hearing shall be given by publication in a newspaper of general circulation within the City at least fifteen (15) days prior to the scheduled hearing date. The notice shall state the time, place and nature of the hearing, the present zoning designation of the property, the zoning designation sought and a description of the property sufficient to identify it. The petitioner shall also post a sign upon the premises at least fifteen (15) days prior to said hearing containing the same information as that required for publication and shall contain lettering of such a size and be placed in such a location as to be conspicuous and clearly legible from the streets or public ways.

(e) At any time subsequent to the public hearing, the City Council, upon being satisfied that sufficient grounds exist for effecting the zoning change requested, may adopt an ordinance upon final reading, incorporating the proposed amendment by a majority vote of the membership of the City Council. (Prior code §25-72)

Sec. 16-9-40. Miscellaneous.

(a) All petitions for amendments pursuant to Section 16-9-30 above shall be accompanied by a fee of fifty dollars (\$50.00).

(b) All costs associated with the zoning amendments under Sections 16-9-10 and 16-9-30 above shall be paid by the person petitioning to annex or the person petitioning for the zoning change,

such as the case may be. The costs shall include, but are not limited to, City Attorney's fees, publication costs, consulting engineering fees, etc. This provision shall not apply in those annexation proceedings which are initiated not by petition but upon the initiative of the City.

(c) Any amendatory zoning ordinance may be introduced upon first reading at any time, whether prior to or subsequent to the public hearing upon the proposal. (Prior code §25-73)

ARTICLE 10

Vested Property Rights

Sec. 16-10-10. Purpose.

The purpose of this Article is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S. (Prior code §25-80)

Sec. 16-10-20. Definitions.

As used in this Article, unless the context otherwise requires.

Site specific development plan means a plan which has been submitted to the City by a landowner or his or her representative describing with reasonable certainty the type and intensity of use for a specific parcel of property for which the landowner requests the creation of vested rights. Such a plan may be in the form of, but need not be limited to, any of the following final plans or approvals: A planned unit development plan, a subdivision plat, a specially planned area, a planned building group, a general submission plan, a conditional or special use plan, a development agreement or any other final land use approval designation. The City Council may be in agreement with the developer to designate an approval other than those described above to serve as the site specific development plan for a specific project.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. Zoning that is not part of a site specific development plan shall not result in the creation of a vested property right. (Prior code §25-81)

Sec. 16-10-30. Establishment of vested property right.

For all developments or land use applications, a vested property right shall be deemed established upon the approval of a site specific development plan by the City Council. The public hearing to consider approval of a site specific development plan will be conducted for all developments or land use applications at the final approval step, irrespective of its title, which occurs prior to obtaining a building permit application. (Prior code §25-82)

Sec. 16-10-40. Notice and hearing.

No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing published at least fifteen (15) days prior thereto in a newspaper of general circulation within the City. Such notice may, at the City's option, be combined with the

notice required by Section 31-23-304, C.R.S., for zoning regulations, or with any other required notice. At such hearing interested persons shall have an opportunity to be heard. (Prior code §25-83)

Sec. 16-10-50. Approval; effective date; amendments.

A site specific development plan shall be deemed approved upon the effective date of the City Council's approval action relating thereto, as set forth in Section 16-10-30 above. In the event amendments to a site specific development plan are proposed and approved, the effective dates of such amendments, for purposes of duration of a vested property right, shall be the date 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. (Prior code §25-84)

Sec. 16-10-60. Notice of approval.

Each map, plat, site plan or other documents constituting a site specific development plan as set forth in Sections 16-10-20 and 16-10-30 above, shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." The failure of any such document 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 fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the City. (Prior code §25-85)

Sec. 16-10-70. Payment of costs.

In addition to any and all fees or charges imposed by this Code, the City shall, by resolution, establish fees and charges for all costs associated with the approval of the site specific development plan and the establishment of a vested right, including plan review, publication of notices and public hearing costs. (Prior code §25-86)

Sec. 16-10-80. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code, subdivision regulations and building code regulations adopted pursuant thereto, pertaining to the development and use of property. (Prior code §25-87)

Sec. 16-10-90. Limitations.

The City Council declares that nothing in this Article is intended to create any vested property right, but rather only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article 68 or a judicial determination that said Article 68 is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof no longer effective. (Prior code §25-88)

ARTICLE 11

Mobile Homes

Division 1. In General

Sec. 16-11-10. Purposes.

The purpose of this Article is to protect the health, safety and welfare of the people of the City. Furthermore, it is the intent of this Article to achieve the following:

- (1) To make provision for an alternative choice in housing.
- (2) To encourage efficient and functional use of land for mobile home parks and subdivisions.
- (3) To minimize potential impacts on surrounding land uses through the site plan process. (Prior code §23-1)

Sec. 16-11-20. Definitions.

The words and phrases in this Article have the meanings ascribed to them in this Section:

Building Inspector means the designated Building Inspector of the City.

Commission means the Planning and Zoning Commission of the City.

Lot means a portion of a subdivision intended as a unit for transfer of property ownership or for development.

Mobile home means manufactured housing designated for long-term residential use and built on a chassis so that it can be transported to a site and connected to public utility systems.

Mobile home development means a mobile home park or a mobile home subdivision.

Mobile home park means a parcel of land under single ownership or control, and licensed as a mobile home park as provided for in this Article.

Mobile home park permit means a written permit issued by the Building Official permitting the construction, alteration or operation of a mobile home park.

Mobile home space means a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

Mobile home subdivision means a subdivision designed and intended to provide individual lots for residential occupancy in a mobile home.

Travel trailer means a vehicle designed primarily for use as a portable temporary dwelling unit for travel, recreational or camping purposes, either self-propelled or mounted on or towed by another powered vehicle.

Travel trailer park means an area clearly defined and separate from a mobile home park area, with individual parking spaces for not less than twenty (20) travel trailers, which may or may not have facilities for a temporary hook-up of electrical and plumbing outlets, commonly known as a *camping area*. (Prior code §23-2; Ord. 774-06 §1)

Sec. 16-11-30. Where mobile homes are allowed.

(a) Mobile homes shall be located in mobile home developments approved by the City in accordance with procedures set forth in this Article. The location and establishment of mobile home developments shall be subject to all applicable provisions of this Chapter. Further, no mobile home shall be occupied for dwelling purposes unless the mobile home is properly placed in a mobile home space or lot and is connected to water, sewage, electric and gas utilities as appropriate.

(b) Except as otherwise provided for in this Code, no mobile home shall be parked anywhere within the City. (Prior code §23-3)

Sec. 16-11-40. Procedure for new mobile home development.

(a) Before any permits can be issued for construction of a mobile home development, a site plan shall be submitted to and approved by the City Council.

(b) Applicants for mobile home subdivisions, in addition to meeting site plan requirements as stated in Subsection (a) above, shall obtain City Council approval of a subdivision plat in accordance with the provisions of the subdivision regulations of the City.

(c) Mobile home parks legally existing on the effective date of the initial ordinance codified herein shall not be affected by the provisions of this Article unless:

(1) An expansion of the park is requested; or

(2) An increase in the number of mobile home spaces over that approved on the mobile home park permit is requested.

(d) Mobile home parks legally existing on the effective date of the initial ordinance codified herein shall be subject to the annual licensing process and fees as set forth in this Article. (Prior code §23-4; Ord. 774-06 §1)

Division 2. Mobile Home Subdivisions

Sec. 16-11-110. Standards.

The following standards and requirements contained in this Division shall apply to mobile home subdivisions. (Prior code §23-5; Ord. 774-06 §1)

Sec. 16-11-120. Bulk requirements.

The following are the minimum requirements for mobile home subdivisions. Aesthetic, environmental or facility design may necessitate exceeding the minimum specified.

- (1) Parcel size: five (5) acres.
- (2) Parcel street frontage: fifty (50) feet.
- (3) Single-wide unit lot size: four thousand (4,000) square feet.
- (4) Single-wide unit lot frontage: forty (40) feet.
- (5) Double-wide unit lot size: five thousand (5,000) square feet.
- (6) Double-wide unit lot frontage: fifty (50) feet.
- (7) Front setback from property line: fifteen (15) feet.
- (8) Rear setback: ten (10) feet.
- (9) Side setback: five (5) feet.
- (10) Usable open space per lot: one thousand two hundred (1,200) square feet.
- (11) Side and rear spacing of mobile homes shall provide for a minimum of twenty (20) feet between units.
- (12) The required lot frontage may be measured along the front setback line; provided, however, that the lot width at the street line, as measured in a straight line where the lot lines intersect the street lines, is a minimum of twenty (20) feet.
- (13) Only one (1) mobile home dwelling unit shall be allowed on each lot. (Prior code §23-6)

Sec. 16-11-130. Off-street parking requirements.

(a) Every mobile home lot shall include two (2) paved off-street parking spaces located five (5) feet to the rear of the front lot line. In order to meet this requirement, tandem parking design can be utilized.

(b) Where open space community facilities or other amenities are provided, provision shall be made for user parking off the street in accordance with the provision of this Chapter. (Prior code §23-7; Ord. 774-06 §1)

Sec. 16-11-140. Street and sidewalk design standards.

All streets in the mobile home subdivision shall be dedicated to the public and built to City street construction standards and specifications, and also the following:

- (1) Sidewalk width shall be four (4) feet plus a one-foot gutter pan.
- (2) The cul-de-sac right-of-way diameter shall be eighty (80) feet. (Prior code §23-8)

Sec. 16-11-150. Utility design requirements.

All public utilities shall be installed underground in accordance with the Plumbing Code of the Colorado Department of Public Health and Environment, the National Electric Code and City standards for single-family residential service. (Prior code §23-9)

Sec. 16-11-160. Building code requirements.

(a) All mobile homes in mobile home subdivisions shall be certified as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development.

(b) Prior to moving any mobile home into a mobile home subdivision, the owner or other authorized person shall obtain a permit issued by the Building Inspector. The permit shall be valid for a period of ninety (90) days following its issuance. No permit shall be issued to set up a mobile home unless the mobile home is to be set up in conformance with the approved site plan of the mobile home subdivision. This permit shall include provisions that the mobile home owner shall be responsible for any damages to streets, sidewalks or other public areas or structures within the mobile home subdivision that may be caused in moving the mobile home onto the lot.

(c) Skirting of an acceptable quality shall be attached to all mobile homes within ninety (90) days of the date of issuance of the permit.

(d) Mobile homes shall be tied down in accordance with the stabilization and anchorage instructions furnished by the mobile home manufacturers.

(e) Prior to occupancy, the Building Inspector shall inspect each mobile home to determine compliance with this Code. No occupancy shall be permitted or certificate of occupancy issued until said inspection and all connections to public utilities have been made.

(f) A permit shall be required to move a mobile home from a mobile home lot. The Building Inspector shall issue the permit, and said permit shall include provisions that the owner shall be responsible for any damages to streets, sidewalks or other public areas or structures within the mobile home subdivision that may be caused in moving the mobile home from a lot. The permit shall also be conditioned upon proper disconnection from public utilities.

(g) Fees for any of the permits required by this Section shall be established by the City Council by resolution from time to time. (Prior code §23-10)

Sec. 16-11-170. Homeowners' association.

All mobile home subdivision developers shall establish an association of property owners. The association shall satisfy standards established by the City Council by resolution to include, but not be limited to the following:

- (1) Mandatory participation in an association of property owners to maintain all common areas, buffer areas and vacant lots within the subdivision to enforce restrictive covenants;
- (2) Binding effect on all future property owners;
- (3) Perpetual existence;
- (4) Unaffected by any change in zoning or land use;
- (5) Assurance of adequate maintenance;
- (6) Enforceable by the City by appropriate legal action; and
- (7) That if maintenance or preservation of common areas or lots no longer complies with the provisions of the association's document, the City may take all necessary action to assure compliance and assess the association all costs incurred by the City for such purposes, including reasonable attorney fees. (Prior code §23-11; Ord. 774-06 §1)

Division 3. Mobile Home Parks

Sec. 16-11-210. Mobile home park permits.

(a) It is unlawful for any person to construct, operate, maintain or alter a mobile home park in the City without first having secured a permit from the City to do so.

(b) Application for a mobile home park permit shall be made in writing to the City Clerk and shall contain the following information:

- (1) The name and address of the applicant;
- (2) The name and operator of the mobile home park; and

(3) A copy of the site plan to be approved by the City Council and recorded at the County Clerk and Recorder's office. Mobile home parks existing on the effective date of the initial ordinance codified herein shall utilize plans already on file with the Building Inspector unless changes are required.

(c) No permit may be issued for a mobile home park unless a certificate is presented that shows all property taxes, real and personal, and all special assessments have been paid to date.

(d) All annual operating permits shall expire on April 30th. Application for permit renewal shall be made at least thirty (30) days prior to the expiration date. The application for such permit, or renewal thereof, shall be accompanied by an annual fee of fifty dollars (\$50.00) for the first twenty (20) mobile home spaces or part thereof, and two dollars and fifty cents (\$2.50) for each additional mobile home space in the existing or proposed mobile home park.

(e) No mobile home park permit shall be transferable or assignable.

(f) If the Building Inspector determines that the mobile home park is in compliance with all provisions of this Code and other applicable regulations, he or she shall issue a mobile home park permit. (Prior code §23-12; Ord. 774-06 §1)

Sec. 16-11-220. Standards.

The following standards shall apply to all mobile home parks which shall be subject to review and approval through the site plan process. (Prior code §23-13)

Sec. 16-11-230. Bulk requirements.

The following are minimum requirements for mobile home parks:

(1) Minimum area: park site, five (5) acres; mobile home space, four thousand (4,000) square feet.

(2) Minimum lot width: park site, one hundred (100) feet; mobile home space, forty (40) feet single-wide; fifty (50) feet double-wide.

(3) Minimum yards:

a. The distance between any building or mobile home from a property line of the park shall be twenty (20) feet.

b. The front setback of a mobile home, exclusive of the towing hitch, shall be fifteen (15) feet from the back of the curb on interior streets or drives.

c. Side and rear spacing shall provide for a distance of twenty (20) feet between units.

d. There shall be a minimum setback of eighteen (18) feet between any service facility or mobile home park permanent building and any mobile home. (Prior code §23-14)

Sec. 16-11-240. Space markers.

Each mobile home space shall be clearly marked on the ground by permanent stakes, markers or other suitable means. (Prior code §23-15)

Sec. 16-11-250. Street design standards.

All interior streets in mobile home parks shall be privately owned and maintained by the mobile home park owner and shall be built to City street construction standards and specifications, and also the following:

(1) Sidewalk width shall be four (4) feet plus a one-foot gutter pan;

(2) Cul-de-sac right-of-way diameter shall be eighty (80) feet; and

(3) Paved walks shall be provided to each mobile home stand from the street. (Prior code §23-16)

Sec. 16-11-260. Off-street parking.

(a) Every mobile home park space shall have one (1) paved off-street parking space adjacent to the mobile home stand. There shall be one (1) additional designated parking space for each mobile home space within one hundred (100) feet of the space for exclusive use of its occupants.

(b) Where open space, community facilities or other amenity is provided, provision shall be made for user parking off the street in accordance with the provisions of this Chapter. (Prior code §23-17)

Sec. 16-11-270. Utility design requirement.

(a) All public utilities shall be installed underground in accordance with the Plumbing Code of the Colorado Department of Public Health and Environment, the National Electrical Code and City standards.

(b) Mobile home parks shall have one (1) master meter for water service. (Prior code §23-18)

Sec. 16-11-280. Mobile home stands.

(a) The mobile home stand in the mobile home space shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, to secure the superstructure against uplift, sliding, rotation and overturning.

(b) The mobile home stand shall not bear, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.

(c) The mobile home stand shall be provided with anchors and tie-downs such as cast-in-place concrete "dead man," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home.

(d) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and at the midpoints of the mobile home stand, for a total of at least six (6) tie-down points, each able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.

(e) The location of each mobile home stand shall be at such elevation, distance and angle in relation to an access street that placement and removal of the mobile home is practical. (Prior code §23-19)

Sec. 16-11-290. Outdoor living area.

(a) An outdoor living area shall be provided on each space equal to at least ten percent (10%) of its area, provided that in no case shall such area be less than three hundred (300) square feet or required to be more than five hundred (500) square feet.

(b) Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced or planted to provide reasonable privacy. Within such area, a section suitably surfaced shall be provided, not less than one hundred (100) square feet in area or ten (10) feet in width. This section may be covered in whole or in part by a roof. (Prior code §23-20)

Sec. 16-11-300. Tenant storage.

(a) A separate uniform tenant storage structure shall be provided for each space, located on each space or in compounds not more than one hundred (100) feet from each mobile home stand serving no more than four (4) mobile homes.

(b) There shall be a minimum of two hundred twenty-four (224) cubic feet of storage area provided for each mobile home space.

(c) Design and location shall enhance the appearance of the park, and the structure shall be constructed of suitable weather-resistant materials. (Prior code §23-21)

Sec. 16-11-310. Building requirements.

(a) Mobile homes in mobile home parks shall not be required to meet Department of Housing and Urban Development standards.

(b) All mobile homes shall be skirted, but such skirting shall not attach the mobile home permanently to the ground, provide a harborage for rodents or create a fire hazard.

(c) Additions to increase the floor area of mobile homes within the mobile home park shall be permitted, provided that such additional room, including cabanas, patios or porches, does not exceed twenty percent (20%) of the square foot area of the mobile home.

(d) Prior to occupancy, the Building Inspector shall inspect each mobile home to determine compliance with this Code. No occupancy shall be permitted or certificate of occupancy issued until said inspection and all connections to public utilities have been made. Fees for this inspection shall be established by resolution of the City Council from time to time.

(e) All additions shall comply with minimum yard requirements, and a building permit shall be required in advance for any such addition. (Prior code §23-22; Ord. 774-06 §1)

Sec. 16-11-320. Street names and addresses.

All mobile home park streets shall be named on the plan submitted by the owner for approval. Each space shall be numerically designated for address and mail purposes and signs furnished and installed by the mobile home owner. (Prior code §23-23)

Sec. 16-11-330. Solid waste disposal.

(a) The owner of any mobile home park shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage and handling that meet or exceed city, state or federal regulations.

(b) The owner shall provide containers for the storage of solid wastes awaiting collection. Containers are to be sized to completely contain all solid wastes that are generated on the premises. Such containers shall conform to all applicable City specifications or regulations including size, sanitary conditions, physical conditions and container closure.

(c) The owner shall provide an adequate location for such containers which shall facilitate the collection of solid wastes from the park. Such location shall be accessible to collection vehicles and to occupants of the park. The collection vehicle should be able to remain on a public street or alley and be able to stop directly adjacent to the container location. If private drives must be used, they should provide sufficient space around parked vehicles for easy operation of the collection vehicle without backing the vehicle.

(d) The collection points, including the containers located therein, shall be kept in a neat and sanitary condition by the owner or his or her agent. (Prior code §23-24)

Sec. 16-11-340. Revocation of permit.

(a) It shall be the responsibility of the owner to insure that all requirements of this Article are met and maintained.

(b) When it appears to the Building Inspector, the Fire Chief or the Chief of Police that any person holding a license under this Article has violated any of the provisions of this Article or any health or safety regulation of the City, a written notice shall be served upon such owner in person or by certified mail specifying the violation of this Article or any health or safety regulation and requiring him or her to appear before the City Council at a time specified therein, not less than ten (10) days after such service, and to show cause why such license should not be suspended or revoked. At such time, the owner and the Building Inspector, Fire Chief or Chief of Police may produce such evidence as may be relevant to determine whether the violation contained in the charge has been committed. If the City Council finds that such violation has not been committed, the City Council shall so advise the owner and the owner shall be permitted to continue operation; however, if the City Council finds from the evidence that such violation has been committed, the City Council shall so advise the owner and may suspend or revoke the license.

(c) It shall be unlawful for any person whose license has been revoked or suspended to operate, continue to operate or offer to operate any mobile home park after the date of such revocation or during the term of suspension, as the case may be. (Prior code §23-25; Ord. 774-06 §1)

Sec. 16-11-350. Office and register required.

Every mobile home park shall have an office in which a copy of the park permit and certificate of occupancy shall be posted, and the park register shall be kept in such office. It shall be the duty of the owner to keep a register of park occupancy which shall be current at all times and contain the following information:

(1) Full name and address in the park of the owner of the mobile home or his or her tenant or agent.

(2) The make, model, serial number, year and dimension of each mobile home.

(3) The date of arrival and departure and the destination of each mobile home. (Prior code §23-26; Ord. 774-06 §1)

Division 4. Site Plan

Sec. 16-11-410. Plan contents.

Before any permit is issued for construction of a mobile home development, a site plan and required documentation shall be submitted to and approved by the City Council. The plan shall be prepared by a registered land surveyor or registered professional engineer and shall be drawn to a scale of no less than 1" = 100' and shall include as a minimum the following:

- (1) North arrow, date of plan, engineer's scale and legend.
- (2) Boundaries and area of mobile home development, legal description of property and total spaces in the area.
- (3) Names of adjacent public streets and roads and existing zoning of adjacent property.
- (4) Name and address of the fee owner and record owner of the proposed mobile home development; and name, address and phone number of the firm or individual responsible for the site plan.
- (5) Topography, showing existing and proposed grades, at one-foot intervals.
- (6) All required setback lines, shown as dashed lines.
- (7) Landscaping and buffer areas.
- (8) Location and dimensions of all mobile home lots or spaces and a schedule of units per acre.
- (9) Lot and block numbering system of lots or numbering system for each mobile home space.
- (10) Location and dimensions of existing and proposed right-of-ways, easements and proposed street names.
- (11) Location and plans of any buildings to be constructed in the mobile home development.
- (12) Surface drainage and storm sewer plan.
- (13) Paving and drainage plans showing the directions and calculated quantities of run-off. Street and drainage construction shall be to the specifications of the City as to location and grade. Drainage improvements shall be sufficient to contain drainage flows.

(14) Plans and profiles of all roads and main storm drainage and sanitary sewer facilities.

(15) Location and dimensions of trash disposal areas or enclosures.

(16) Location and size of proposed water and sewer service connections.

(17) Either proposed homeowners' association and restrictive covenants for a mobile home subdivision or tenant rules and regulations and plans for operation of the mobile home park. (Prior code §23-27)

Sec. 16-11-420. Site design requirements.

(a) Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. No site within the park shall have direct vehicular access to a street bordering the development. There shall be at least two (2) connections to the public street system.

(b) Access for pedestrians and cyclists to and from the mobile home development shall be by safe and convenient routes. Such ways need not be adjacent or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at the perimeters of mobile home developments, such crossings shall be safely located, marked and controlled, and where such ways are exposed to substantial vehicular traffic, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.

(c) Buffers.

(1) Where mobile home developments adjoin public streets located along exterior boundaries, a landscaped buffer at least ten (10) feet wide shall satisfy open space requirements for individual dwellings, but shall not contain carports, recreational shelters, storage structures or any other structures generally prohibited in yards adjacent to streets in residential districts. No direct vehicular access to individual lots shall be permitted through such yards, and no group parking facilities or active recreation areas shall be allowed therein.

(2) Where mobile home developments are so located that one (1) or more boundaries adjoin neighboring residential districts without an intervening street, alley or other permanent open space at least twenty (20) feet in width, a buffer at least ten (10) feet wide shall be provided.

(3) Along the perimeter of mobile home developments, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise or other off-site influences, or to separate occupants of adjoining residential districts from the potentially inconsistent land use characteristics of mobile home parks and residential districts. In particular, extensive off-street parking areas and service areas for loading and unloading of

other than passenger vehicles, and storage and collection of trash and garbage, shall be screened.

(d) In mobile home parks only, adequate light shall be provided to illuminate streets, driveways and walkways for the safe movement of vehicles and pedestrians at night. (Prior code §23-28)

Sec. 16-11-430. Site plan review procedure.

(a) The site plan of the proposed mobile home development shall be submitted in six (6) copies to the Building Official. The fee to be paid at submittal shall be determined by the City Council by resolution from time to time.

(b) The City Council may receive the site plan at a regular meeting after it determines that the site plan is complete. The City Council shall approve, modify and approve, or disapprove the site plan within sixty-five (65) days after date of receipt of the site plan.

(c) The site plan as approved by the City Council shall be binding and shall not be changed during the construction of the mobile home development. Substantial changes from an approved plan shall be approved by the City Council.

(d) In the case of a mobile home subdivision, the requirements of the site plan and site plan approval may be incorporated into any required plat and considered as one (1) document. If such is the case, the approval process of the Land Subdivision Ordinance shall govern. (Prior code §23-29)

Division 5. Travel Trailer Parks

Sec. 16-11-510. Travel trailer park license; application, fee and issuance.

(a) It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained upon any property owned or controlled by such person, a travel trailer park in the City, without having first secured a license from the City Council to do so. Prior to issuance of the initial license for a travel trailer park, the Building Inspector shall determine that the applicant has complied with the provisions of this Article and this Chapter. The certificate of occupancy shall be attached to the register of such park and a copy shall be maintained on file in the office of the City Clerk. All licenses shall expire on April 30th. Application for license renewal shall be made at least thirty (30) days prior to expiration.

(b) The application for such license, or the renewal thereof, shall be filed with the Building Official and shall be accompanied by an annual fee of fifty dollars (\$50.00) for the first twenty (20) travel trailer spaces or part thereof, and two dollars and fifty cents (\$2.50) for each additional travel trailer space in the existing or proposed travel trailer park. The cost of any license having less than six (6) months to run before the expiration date, as herein provided, shall be reduced by fifty percent (50%). The application for a license, or a renewal thereof, shall be made on forms furnished by the City Clerk and shall include the name, address and signature of the owner in fee of the tract; name, address and signature of the applicant, if other than the owner; and the legal description of the premises upon which the travel trailer park is or will be located.

(c) No license may be issued for a travel trailer park unless the plans for such park have been approved according to the requirements of this Article.

(d) No license may be issued for a travel trailer park unless a certificate is presented that shows that property taxes, real and personal, and all special assessments have been paid to date.

(e) No license issued for a travel trailer park shall be transferable or assignable.

(f) The owner or operator of a travel trailer park shall be, and at all times remain, responsible for all utilities and buildings thereon.

(g) A license issued to a travel trailer park may be revoked in accordance with the provisions of Section 16-11-330 of this Article. (Prior code §23-30)

Sec. 16-11-520. Parking travel trailers and motor homes.

No travel trailer, motor home, camper coach, camper trailer, trailer coach or the like, whether self-propelled or without motive power, either attached to or detached from the towing vehicle, shall park or be parked within the City, except in a licensed and approved travel trailer park as specified by this Article, or upon any alley or public ground within the City; nor shall the same be parked on any street or streets within the City for a period in excess of seventy-two (72) hours within any seven (7) consecutive days; provided, however, that this Section shall not be construed to prohibit the parking of uninhabited, unused travel trailers, motor homes or the like upon private property for the purpose of storage or sale when done so in compliance with all other applicable provisions of this Code. (Prior code §23-31)

Sec. 16-11-530. General requirements for travel trailer parks.

Travel trailer parks shall meet the following requirements:

(1) The travel trailer park shall provide a service building containing separate shower and sanitary facilities located within two hundred (200) feet of any travel trailer parking space.

(2) The service building shall be constructed to the requirements of the Building Code as adopted by the City, and the requirements of the Colorado Department of Public Health and Environment.

(3) No toilet, washing or bathing facility within the travel trailer shall be used unless it is connected with the City sanitary sewer or is a self-contained unit. No human excrement, wash water, garbage or trash shall be deposited or thrown on the ground.

(4) The size of individual spaces for parking of travel trailers shall be a minimum size of twenty (20) feet by sixty (60) feet.

(5) Travel trailers shall not occupy a parking site in such a park for more than fifteen (15) days from initial occupancy.

(6) All service buildings and the grounds of the park shall be maintained in a clean, slightly condition and kept free of any condition that will menace the health of any occupant or the public, or constitute a nuisance or fire hazard.

(7) One (1) mobile home may be placed in a travel trailer park and occupied as a residence or office by the caretaker or owner of the park. Such mobile home shall comply with provisions of this Article.

(8) The owner of any travel trailer park shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage that will meet or exceed City, state and federal regulations.

a. The owner shall provide containers for the storage of solid wastes awaiting collection. Containers are to be sized to completely contain all solid wastes that are generated on the park. Such containers must conform to all applicable City specifications or regulations including, but not limited to size, sanitary conditions, physical conditions and container closure.

b. The owner shall provide an adequate location for such containers which shall facilitate the collection of solid wastes from the premises. Such location shall be accessible to collection crews and occupants of the premises. The collection vehicle should be able to remain on a public street or alley and to stop directly adjacent to the container location. If private drives must be used, they should provide sufficient space around parked vehicles for each operation of the collection vehicle without backing the vehicle.

c. The collection points, including the containers located therein, shall be kept in a neat and sanitary condition by the owner or his or her agent. (Prior code §23-32; Ord. 774-06 §1)

Sec. 16-11-540. Building Inspector to enforce Article; right of entry.

It shall be the duty of the Building Inspector to enforce all provisions of this Article, except as otherwise provided herein. For such purpose, the Building Official shall have the right and hereby be empowered to enter any premises on which any mobile home or travel trailer is located or is about to be located, and to inspect the same and all accommodations connected therewith at any reasonable time. (Prior code §23-33; Ord. 774-06 §1)

Division 6. Public Campgrounds

Sec. 16-11-610. Definitions.

As used in this Article, the following definitions shall apply:

Day means a twenty-four-hour period, or any part thereof.

Public campground means a public area maintained, operated and controlled by the City to provide for the overnight camping of tourists and other travelers, designed primarily to provide space for travel trailers and tents. (Prior code §23-34)

Sec. 16-11-620. Length of stay.

It is unlawful for any person to occupy any space in any public campground for longer than seven (7) consecutive days. A person shall be deemed to have occupied space within the campground for one (1) full day if he or she has occupied space in the campground for any part of a day. However, for a break to occur in the occupation of a space, a person must have removed himself or herself and his or her tent, trailer or other shelter or accommodations for one (1) full day. (Prior code §23-35)

Sec. 16-11-630. Charges.

(a) The first twenty-four (24) hours of occupancy shall be free.

(b) Thereafter a charge established by resolution of the City Council from time to time shall be levied and paid in advance for occupancy of each space for each day or part thereof. (Prior code §23-36; Ord. 774-06 §1)

Sec. 16-11-640. Camping spaces.

(a) All public campgrounds shall be divided into space which shall be appropriately marked and readily apparent.

(b) All vehicles, travel trailers and tents shall be placed or parked in such spaces and no other place in the public campgrounds. (Prior code §23-37)

Sec. 16-11-650. Litter.

It is unlawful for any person to place, throw or in any other manner deposit upon any public campground any waste, garbage, refuse, excrement or litter of any nature whatsoever, and all persons shall keep the area around their vehicle and within the space occupied by them free from all debris and litter of any nature. (Prior code §23-38)

Sec. 16-11-660. Fires.

It is unlawful for any persons to build any fires on any public campgrounds except in places specifically provided therefor. (Prior code §23-39)

Sec. 16-11-670. Violations.

(a) Any person who violates any provision of this Division shall be subject to a fine as established in Section 1-4-20 of this Code.

(b) Each day any person occupies a space within a public campground beyond seven (7) consecutive days, as provided in this Division, shall be deemed a separate violation of this Article.

(c) In addition to any other remedies in this Division, the City, through its Police Department, may remove any violators from the public campgrounds and exclude them therefrom. If the violators upon request refuse to remove themselves and their vehicles and belongings, the vehicles and belongings may be removed from the public campground, impounded and the cost therefor collected from the violators' costs prior to the return of such items. (Prior code §23-40; Ord. 774-06 §1)

ARTICLE 12

Floodplains

Division 1. In General

Sec. 16-12-10. Implementation of federal program.

(a) The City Council will enact as necessary, and maintain in force for those areas having alleged flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 1910 of the National Flood Insurance Program Regulations.

(b) The City Council will take such other official action as may be reasonably necessary to carry out the objectives of the program. (Prior code §11A-1)

Sec. 16-12-20. Duties of City Administrator.

The City Administrator is vested with the responsibility, authority and means to:

(1) Delineate or assist the Federal Administrator, at his or her request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites;

(2) Provide such information as the administration may request concerning present uses and occupancy of the floodplain;

(3) Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain areas and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent aggravation of existing hazards; and

(4) Submit on the anniversary date of the community's initial eligibility an annual report to the Federal Administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures. (Prior code §11A-2)

Sec. 16-12-30. Maintenance of floor elevation records.

The City Clerk is appointed to maintain for public inspection and to furnish upon request a record of elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures located in the special flood hazard areas. If the lowest floor is

below grade on one (1) or more sides, the elevation of the floor immediately above must also be recorded. (Prior code §11A-3)

Sec. 16-12-40. Duties of Building Official.

(a) The Building Official shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and manufactured homes) must:

- (1) Be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Use construction materials and utility equipment that are resistant to flood damage; and
- (3) Use construction methods and practices that will minimize flood damage.

(b) The Building Official shall review subdivision proposals and other proposed new development to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage;
- (2) All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(c) The Building Official shall require new or replacement water supply systems and/or sanitary sewer systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Prior code §11A-4)

Division 2. Prevention of Flood Damage

Sec. 16-12-110. Statutory authorization.

The State Legislature has in the state statutes delegated the responsibility of the local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council adopts this Division to protect and enhance those objectives. (Prior code §11A-5; Ord. 774-06 §1)

Sec. 16-12-120. Findings of fact.

(a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services,

extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Prior code §11A-5)

Sec. 16-12-130. Statement of purpose.

It is the purpose of this Division to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions. (Prior code §11A-5)

Sec. 16-12-140. Methods of reducing flood losses.

In order to accomplish its purposes, this Article includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Prior code §11A-5)

Sec. 16-12-150. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application:

Appeal means a request for review of the Floodplain Administrator's interpretation of any provision of this Article or a request for a variance.

Area of special flood hazard means the land in the floodplain within the City subject to a one-percent or greater chance of flooding in any given year.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

Existing manufactured home park or subdivision means a manufactured home park for which the construction of facilities for servicing lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) are completed before the effective date of the initial ordinance codified herein.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters, or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the City.

Flood insurance study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Lowest floor means the lowest floor of the lowest enclosed area (including basement) of a building or structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

Manufactured home means, for purposes of this Article only, a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* does not include a *recreational vehicle*.

New construction means structures for which the *start of construction* commenced on or after the effective date of the initial ordinance codified herein, and includes any subsequent improvements to such structures.

New manufactured home park or home subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the initial ordinance codified herein.

Recreational vehicle means a vehicle which is: (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was, for the purpose of this Division only, within one hundred eighty (180) days of the permit date. The *actual start* means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building or manufactured home that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief from the requirements of this Division which permits construction in a manner that would otherwise be prohibited by this Division. (Prior code §11A-6; Ord. 774-06 §1)

Sec. 16-12-160. Lands to which regulations apply.

This Article shall apply to all areas of special flood hazard within the jurisdiction of the City. (Prior code §11A-7)

Sec. 16-12-170. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Brush, dated February 1977," with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this Code. The Flood Insurance Study and FIRM are on file at City Hall, 600 Edison Street. (Prior code §11A-7)

Sec. 16-12-180. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. (Prior code §11A-7)

Sec. 16-12-190. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed

restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Prior code §11A-7)

Sec. 16-12-200. Interpretation.

In the interpretation and application of this Division, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Prior code §11A-7; Ord. 774-06 §1)

Sec. 16-12-210. Warning and disclaimer of liability.

The degree of flood protection required by this Division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Division does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Division shall not create liability on the part of the City, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Division or any administrative decision lawfully made thereunder. (Prior code §11A-7)

Sec. 16-12-220. Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16-12-170 above. Application for a development permit shall be made on forms furnished by the Building Official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Paragraph 16-12-360(2) of this Article; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Prior code §11A-8)

Sec. 16-12-230. Designation of Floodplain Administrator.

The Building Official is hereby appointed to administer and implement this Division by granting or denying development permit applications in accordance with its provisions. (Prior code §11A-9)

Sec. 16-12-240. Duties and responsibilities of Floodplain Administrator.

Duties of the Floodplain Administrator shall include, but not be limited to:

(1) Permit review:

a. Review all development permits to determine that the permit requirements of this Division have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Paragraph 16-12-370(1) of this Article are met.

(2) Use of other base flood data: When base flood elevation data has not been provided in accordance with Section 16-12-170 above, the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A of the City's FIRM are administered in accordance with Section 16-12-360 of this Article.

(3) Information to be obtained and maintained:

a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;

2. Maintain the floodproofing certifications required in Paragraph 16-12-220(3) above.

c. Maintain for public inspection all records pertaining to the provisions of this Division.

(4) Alteration of watercourses:

a. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM boundaries: Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16-12-250 below. (Prior code §11A-10)

Sec. 16-12-250. Variance procedure.

(a) Appeal Board:

(1) The Board of Adjustment as established by the City shall hear and decide appeals and requests for variances from the requirements of this Division.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Division.

(3) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the District Court of the County, as provided in Section 24-4-106, C.R.S.

(4) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Division and:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water, and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) Upon consideration of the factors of Paragraph (4) above and the purposes of this Division, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Division.

(6) The Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

(b) Conditions for variances:

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that Subparagraphs a. through k. in Paragraph (a)(4) above have been fully considered. As the lot size increases above the one-half (½) acre, the technical justifications required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create

nuisances, cause fraud on or victimization of the public as identified in Section 16-12-___ [originally prior code §11A-7(a)(4) – See Note 45], or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Prior code §11A-11)

Division 3. Flood Hazard Reduction

Sec. 16-12-310. General standards.

In all areas of special flood hazards, the standards contained in this Division are required. (Prior code §11A-12; Ord. 774-06 §1)

Sec. 16-12-320. Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and to withstand hydrodynamic loads.

(b) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

(1) Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;

(2) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side. (Prior code §11A-12)

Sec. 16-12-330. Construction materials and methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Prior code §11A-12)

Sec. 16-12-340. Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Prior code §11A-12)

Sec. 16-12-350. Subdivision proposal.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas/electrical and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less. (Prior code §11A-12)

Sec. 16-12-360. Specific standards.

In all areas of special flood hazards where base-flood elevation data has been provided as set forth in Section 16-12-170 or Paragraph 16-12-240(2) of this Article, the following provisions are required:

(1) Residential construction: New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to no less than twelve (12) inches above the base flood elevation of the site.

(2) Nonresidential construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for

meeting the provisions of this Paragraph. Such certifications shall be provided to the official as set forth in Subparagraph 16-12-240(3)b of this Article.

(3) Openings in enclosures below the lowest floor: For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following criteria:

a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one (1) foot above grade; and

c. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured homes:

a. Manufactured homes shall be anchored in accordance with Subsection 16-12-320(b) above.

b. All new manufactured homes or those to be substantially improved shall conform to the following requirements:

1. Require that manufactured homes that are placed or substantially improved on a site a) outside of a manufactured home park or subdivision, b) in an expansion to an existing manufactured home park or subdivision, or c) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in Subparagraph 1 above be elevated so that either a) the lowest floor of the manufactured home is at or above the base flood elevation, or b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) Recreational vehicles. All recreational vehicles shall either: (a) be on the site for fewer than one hundred eighty (180) consecutive days, (b) be fully licensed and ready for

highway use, or (c) meet the permit requirements and elevation and anchoring requirements for resisting wind forces. (Prior code §11A-13)

Sec. 16-12-370. Floodways.

Located within areas of special flood hazard as established in Section 16-12-170 of this Article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) No encroachments, including fill, new construction, substantial improvements and other development, shall be permitted unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and

(2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Division. (Prior code §11A-14)

ARTICLE 13

Violations and Penalties

Sec. 16-13-10. Penalties; remedies.

(a) Failure to comply with all of the provisions of this Chapter, unless a variance has been authorized by the Board of Adjustment, or the land subdivision regulations adopted and amended from time to time by the Planning Commission shall constitute a misdemeanor and, upon conviction, is punishable in accordance with the provisions of Section 1-4-20 of this Code.

(b) In case any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, maintained or used, or any land is proposed to be used, in violation of any provision of this Chapter or the land subdivision regulations adopted and amended from time to time by the Planning and Zoning Commission, the City Council, in addition to other remedies provided by law, may institute any appropriate action to prevent, enjoin, abate or remove the violation, to prevent the occupancy of the building, structure or land or to prevent any illegal act or use in or on such premises. (Prior code §25-67; Ord. 774-06 §1)

Sec. 16-13-20. Notification.

Whenever the Building Inspector shall find a violation of any of the provisions of this Chapter, the Building Inspector shall notify the person responsible for the violation in writing and shall order the necessary corrections to be made within a period of two (2) months. (Prior code §25-68)

Sec. 16-13-30. Complaints.

Any person aggrieved by a violation or apparent violation of the provisions of this Chapter may file a written complaint with the Building Inspector, who shall investigate such complaint and

take legal action within five (5) days to have the violation penalized or removed, if such violation is found to exist. (Prior code §25-69)