City of Fountain Zoning Ordinance Update

Fountain Municipal Code: Title 17 Zoning

Adopted

Janaury 14, 2020

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ARTICLE I. GENERAL PROVISIONS

Chapter 17.01 Introductory Provisions

Section 17.01.010 Title of Provisions

The regulations codified in this Title shall be known and may be cited as the Zoning Ordinance of the City of Fountain.

Section 17.01.020 Purpose and Intent

This Title is written in accordance with the Fountain Comprehensive Development Plan and is designed for promoting the health, safety, convenience and welfare of the citizens of Fountain. The Title is intended to lessen congestion in the streets, provide adequate light and air, encourage the most appropriate use of land, ensure the protection and preservation of open lands and natural amenities, and to conserve the value of property in accordance with the Fountain Comprehensive Development Plan.

Section 17.01.030 Statutory Authority

The Fountain Zoning Ordinance is authorized by Title 31, Article 23, Section 301, and et. seq., of the Colorado Revised Statutes and is declared to be in accordance with all provisions of the statutes.

Section 17.01.040 Jurisdiction

Provisions of this Title shall be effective within the incorporated limits of the City of Fountain.

Section 17.01.050 Effective Date

A. These regulations shall be in effect from the date of adoption by the City Council of the City of Fountain.

B. To the extent that the provisions of this Title are the same in substance as the previously adopted provisions that they replace in the City's Zoning and Subdivision Ordinances, they shall be considered as continuations thereof and not as enactments unless otherwise specifically provided. Any situation that did not constitute a lawful, non-conforming building, use, or site under a previously adopted Zoning Ordinance does not achieve lawful non-conforming status under this Ordinance.

Section 17.01.060 Relationships to the Fountain Comprehensive Development Plan

A. It is the intent of the Planning Commission and City Council that this Title implements the planning policies adopted by the Planning Commission and City Council as reflected in the comprehensive development plan and other related plans and planning documents. The Planning Commission and City Council reaffirms its commitment that this Title and any amendment to it are in conformity with the adopted planning policies.

B. The City hereby expresses its intent that neither this Title nor any amendment to it may be challenged based on any alleged non-conformity with any planning document. The Fountain Comprehensive Development Plan shall be used as guide in decision-making and may be reasonable grounds for denial or reconsideration of the application.

Section 17.01.070 Severability

A. Should any Section or provision of this Title be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Title as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Chapter 17.02 Applicability, Construction and Enforcement

Section 17.02.010 Applicability of Regulations

A. Except as provided in this Chapter:

1. No building shall be erected or structurally altered, and no building or premises shall be used for any purposes other than as permitted in the zoning district in which the building or premises is located.
2. No lot area shall be so reduced or diminished that the yards or open spaces shall be smaller than those prescribed by this Chapter, nor shall the lot area per dwelling unit be reduced in any manner except in conformity with the regulations established for the district in which such building is located.
3. No yard or other open space provided about any building for the purpose of complying with this Chapter shall be considered as providing yard or other open space for any other building.

Section 17.02.020 Applicability to Existing Buildings

The regulations contained in this Chapter are not retroactive in their application to existing buildings.

Section 17.02.030 Interpretation

A. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare.

B. Whenever the requirements of this Chapter are at variance with any other lawfully adopted rules, regulations or Ordinances, the more restrictive, or that imposing the higher standards, shall govern.

Section 17.02.040 Validity

Should any Section, clause or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid.

Section 17.02.050 Enforcement

A. It shall be the duty of the Zoning Administrator or designee to enforce the provisions of this Chapter.

B. Any person engaging in development, change of use, modification or enlargement of use of any land, building or structure that is subject to these regulations who does not obtain or comply with the necessary permits, approvals or variances as prescribed by these regulations or who violates any of the provisions of these regulations, may be enjoined by the City for engaging in such activity and may be subject to the penalties described in this Chapter.

C. It shall be unlawful to erect or construct any building subject to the uniform building code, unless specifically excepted by this Section or other City Ordinances.

D. No permits shall be issued by any officer of the City for the construction of any building, or other improvements requiring a permit, upon any unplatted land, unless and until the requirements hereof have been complied with.

E. No building or construction permit shall be issued prior to approval of the plot plan or site development plan, unless the property has been specifically exempted from the development process by definition or by official action of the City Council, after Planning Commission review.

F. No plot plan or site development plan shall be approved by the Zoning Administrator unless such property is classified in the appropriate zoning district as defined in this Title.

G. No building or structure shall be erected, moved, or structurally altered unless a building permit therefore has been issued by the Building Official or his authorized representative. All building permits shall be issued in conformance with the provisions of these regulations and all other applicable regulations and shall be valid for a period of time not exceeding six (6) months from the date of issue.

H. No land or building shall hereafter be changed in use, nor shall any new structure, building, or land be occupied or used unless the owner shall have obtained a certificate of occupancy from the Building Official. After inspection by the Building Official, and provided that the use shall be in conformance with the provisions of these regulations and all other applicable regulations, a certificate of occupancy shall be issued within three (3) days of the time of notification by the owner that the building is completed and ready for occupancy. A copy of all certificates of occupancy shall be filed by the City Building Official and shall be available for examination by any person with either proprietary or tenancy interest in the property or building;

I. The Zoning Administrator is empowered, pursuant to Title 2 of the City of Fountain Municipal Code to order in writing the remedy of any violation of any provision of these regulations. After any such order has been served, no work on or use of any building, other structure, or tract of land covered by such order shall proceed, except to correct such violation or comply with said order.

Section 17.02.060 Building Compliance

No building shall be constructed or structurally altered and used until the Building Official has certified that such building and the use thereof comply with the provisions of this Chapter.

Section 17.02.070 Building Permit Compliance

Before issuing a building permit for the construction, alteration or moving of a building the Building Official shall satisfy himself or herself that such building and the use thereof after construction, alteration or new location will conform to the provisions of this Chapter.

Section 17.02.080 Land Use Compliance

No vacant land shall be used and no existing use of land shall be changed to another use until the Zoning Administrator has certified that such use complies with the provisions of this Chapter.

Section 17.02.090 Fees

A. Any land use application fee required by this Chapter shall be nonrefundable and shall be used by the City to defray the City's in-house administrative costs associated with the subject application, including but not limited to City Staff time to administer and process the application and the costs of inspections, publications and notices and other requirements.

B. Any development review fee required by this Chapter shall be refundable, as further provided below, and shall be used by the City to reimburse the City's direct costs in processing the application that are not covered by the land use application fee, including but not limited to outside consultant fees necessary to review the application, such as legal, planning and engineering fees.

Section 17.02.100 Application Completion; Abandonment

A. No application filed under this Chapter shall proceed to hearing or to the final administrative decision-making process, as applicable, until such application has been deemed complete by the Zoning Administrator.

B. Any application that requires additional or modified submittals shall be considered abandoned if the required submittal or resubmittal is not made within one hundred eighty (180) days of the date of written notice of the required submittal or resubmittal.

C. No abandoned application shall be further processed, and any project proposed by an abandoned application may be subsequently proposed again only through an entirely new application, including but not limited to a new application form, all required submittals and applicable fees.

Section 17.02.110 Penalty

A. Penalty for violations. It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any provision of this Chapter.

B. Legal action. In case any building or structure is or is proposed to be erected, constructed, altered, maintained or used, or any land that is proposed to be used, in violation of any provision of this Chapter, the City Council or the City Attorney, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

ARTICLE II. DISTRICT REGULATIONS

Chapter 17.03 Districts and Maps

Section 17.03.010 Districts Established

A. Districts. To carry out the purpose and provisions of this Title, the incorporated area of the City is divided into the following zoning districts:

1. LLR: Large Lot Agricultural/Residential District.
2. RA: Residential Agricultural District.
3. R1: Single Family Residential: Small Lot District.
4. RMU: Residential Mixed Use District.
5. MF: Multifamily Residential District.
6. MHP: Manufactured Housing Park.
7. MHS: Manufactured Housing Subdivision District.
8. MU: Downtown Mixed Use District.
9. CMU: Central Mixed Use Business District.
10. NC: Neighborhood Commercial District.
11. VC: Village Center District.
12. RC: Regional Commercial District.
13. BP: Business Parks District.
14. SO: Small Office/Warehouse.
15. PI: Planned Industrial District.
16. POS: Parks and Open Space District.
17. PUD: Planned Unit Development District.

B. Characteristics and Objectives. Describe the location, natural and built characteristics and attributes which shall be used to determine appropriate zoning district classifications for particular land parcels. In addition, this Section describes the desired characteristics, functions and attributes of appropriate uses for the zoning district, carrying out the intent of the Fountain Comprehensive Development Plan. Appropriate uses shall be located and designed to fulfill the desired characteristics and objectives of the zoning district in which they are located.

C. Use Regulations.

1. Permitted Principal Uses. Uses by right, which are permitted anywhere within the particular zoning district in which they are identified. Additional uses that are not listed, but which are consistent with the purpose and objectives of the zoning district, and are similar in character and level of impacts as identified in the permitted and accessory uses for the zoning district, may also be permitted. Permitted principal uses, other than a single family or two-family dwelling units, require site development plan approval. All structures require building permit approval.

2. Permitted Accessory Uses. Uses by right that are customarily incidental to the identified permitted uses, if they meet any applicable regulations. Permitted accessory uses or structures, may require site development plan approval and building permit approval, as applicable and in accordance with these regulations.

3. Conditional Uses. Uses that may be allowed in the zoning district indicated subject to any applicable regulations. Conditional uses are permitted if it can be demonstrated that the location and the site proposed for the use are appropriate, facilitating the use in a manner which supports the purposes of the zoning district and which is compatible with the surrounding area. Additional uses that are not listed, but which are consistent with the purpose and objectives of the zoning district, and are similar in character and level of impacts as identified in the permitted and accessory uses for the zoning district, may also be permitted subject to review. Conditional uses require the issuance of a permit approved by resolution by the City Council after public hearings before the Planning Commission and the City Council.

D. Dimensional Requirements. Minimum restrictions which apply to the siting, and massing of buildings and structures on the lot, from which no variance will be permitted, except as provided under Variances and Appeals, Chapter 17.25, Planned Unit Developments, Chapter 17.04 and Non-conforming Uses, Structures, Lots and Parking, Chapter 17.27. Dimensional requirements include:

1. Minimum Lot Area.
2. Minimum Lot Width.
3. Maximum Density.
4. Front, Side and Rear Yard Setbacks.
5. Minimum Open Space.
6. Maximum Impervious Coverage.
7. Maximum Building Height.

E. Development Standards. Minimum standards that development and uses within the zoning district must meet to obtain site development plan or plot plan approval.

Section 17.03.020 Official Zoning Map Adopted

The location and boundaries of the zoning districts established by this Title are shown on the Official Zoning Map of the City of Fountain. The Official Zoning Map, together with all data shown thereon and all amendments thereto, is by reference made part of this Title. The Official Zoning Map shall be

identified by the signature of the Mayor of the City and attested by the City Clerk and shall bear the seal of the City and the date of adoption. The Official Zoning Map shall be located in the office of the City Clerk and shall be available for inspection at the City Hall.

Section 17.03.030 District Boundaries

A. District Boundaries. Except where otherwise indicated, zoning district boundaries shall follow municipal corporation limits, section lines, lot lines, right of way lines, or extensions thereof. In property where a zoning district boundary divides a lot or parcel, the location of such boundary, unless indicated by legal description with distance and bearing or other dimensions, shall be determined by using the graphic scale of the Official Zoning Map. In interpreting the Official Zoning Map, unless otherwise specified on the Official Zoning Map, zoning district boundary lines are intended to be property ownership lines or lot lines; centerline of streets, alleys, channel waterways or similar rights of way; the centerline of blocks; section or township lines; municipal corporate boundaries; the centerline of stream beds; or other lines drawn approximately to scale on the Official Zoning Map.

B. Boundary Clarification.

   1. In the event that a zoning district boundary is unclear or is disputed, it shall be the responsibility of the Zoning Administrator to determine the intent and actual location of the zoning district boundary.

   2. Any appeal of the determination of the zoning district boundary made by the Zoning Administrator shall be heard by the Board of Adjustment in accordance with the procedures outlined in Article V.

C. Amendments to Map. Changes in the boundaries of any zoning district shall be made only upon amendment to this Title as specified in Chapter 17.24 and shall promptly be entered on the Official Zoning Map with an entry on the map giving the number of the amending Ordinance.

Section 17.03.040 Minimum Sizes for New Districts

A. Minimum Sizes for New Zoning Districts. Unless contiguous to the same zoning district, all newly created zoning districts shall comply with the following minimum district size. When contiguous to an existing district of the same designation these minimums shall not apply:

   1. LLR, Large Lot Agricultural/Residential District: ten (10) acres.

   2. RA Residential Agricultural District: five (5) acres.

   3. R1 Single Family Residential Small Lot District: one (1) acre.

   4. RMU Residential Mixed Use District: one (1) acre.

   5. MF Multifamily Residential District: two (2) acres.

   6. MHP Manufactured Housing Park District: three (3) acres.

   7. MHS Manufactured Housing Subdivision District: three (3) acres.

   8. MU Downtown Mixed Use District: none.

9. CMU Central Mixed Use Business District: none.
10. NC Neighborhood Commercial District: none.
11. VC Village Center District: one (1) acre.
12. RC Regional Commercial District: five (5) acres.
13. BP Business Park District: two (2) acres.
14. SO Small Office/Warehouse District: one (1) acre.
15. PI Planned Industrial District: three (3) acres.
16. POS Parks and Open Space District: none.
17. PUD Planned Unit Development District: ten (10) acres.

Section 17.03.050 Listing of Permitted Principal Uses

A. No use shall be allowed in any zoning district unless it is specifically enumerated as an allowed principal use or accessory use in the particular zoning district.

B. Designations in lists of uses shall be determined as follows:

1. Permitted principal uses are uses by right and are permitted anywhere within the zoning districts indicated.
2. All principal and accessory uses require a building permit approval, except as exempted by the Pikes Peak Regional Building Code.
3. Permitted principal uses, other than a single family dwelling unit and two-family units, which only require a plot plan, require a site development plan.
4. Uses listed as accessory uses are permitted only if they meet specific criteria contained in this Title, and can demonstrate that they are clearly accessory to the principal use.
5. No accessory uses or structures shall be permitted on a lot unless the principal use or structure is previously existing or until construction has begun on the principal use or structure.
6. A conditional use may be allowed in the district indicated if it can be demonstrated that the location and the site proposed for the use is appropriate, facilitates the use in a manner which support the purposes of the zoning district, and is compatible with adjacent properties and uses.
7. Uses not listed as permitted principal or permitted accessory uses require determination by the Zoning Administrator. The Zoning Administrator will determine if a principal use or permitted use not listed in Article II for the district in which the use is proposed, is similar in character and impact to those listed. If it is determined by the Zoning Administrator to be a substantially different use, then it will be considered and deemed to be prohibited in that zoning district.

Section 17.03.060 Public and Quasi-Public Uses Permitted in All Districts

A. Except as otherwise regulated by Chapter 17.04 Zoning Districts, the following uses shall be permitted in all districts:

1. Minor Utility Facilities.
2. Irrigation ditches.
3. Park and Open Space uses and facilities (public or quasi-public).
4. Railway rights of way, but not including railway maintenance facilities.

B. Except as otherwise regulated by Chapter 17.04 Zoning Districts, the following uses shall be permitted in all districts upon approval of a preliminary site development plan by the Planning Commission:

1. Major Utility Facilities.
2. Public Services.

Chapter 17.04 Zoning Districts

Section 17.04.010 Large Lot Agricultural/Residential District (LLR)

A. Characteristics and Objectives. The Large Lot Agricultural/Residential District is designed to accommodate very low density single family residential uses on large lots that may accommodate livestock at specified density limits as set forth in Chapter 17.18 and allow land to remain in agricultural production. The purpose of the LLR zoning district is to promote the continuance of single family neighborhoods by:

1. Allowing for larger lot development that assists in retaining the rural character of Fountain.
2. Allowing for agricultural and home-based businesses to help provide homeowners with additional economic means for maintaining permanent residency.
3. Ensuring that new development retains the natural conditions of the environment and land.

B. Use Regulations.

1. Permitted Principal Uses:
   a. Single family detached dwelling units, excluding manufactured homes, but including modular dwelling units and tiny homes as specified in Chapter 17.15.
   b. Agricultural activities as defined in this Title.
   c. Keeping of animals as specified in Chapter 17.18.
   d. Group homes for no more than eight (8) persons.
2. Permitted Accessory Uses:
   a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot. Residential accessory uses and structures include, but are not limited to, sheds, play areas and equipment, detached garages, solar panels, landscape areas and gardens, well houses, and pools. Agricultural accessory structures include, but are not limited to, riding stables, barns, silos, and pens.

b. Home-based businesses as specified in Chapter 17.19.

c. Crop farming.

3. Conditional Uses:

a. Non-public schools.

b. Places of worship.

c. Group homes exceeding eight (8) persons.

d. Commercial riding stables.

e. Child care facilities.

C. Dimensional Requirements.

1. Minimum Lot Area: two and one half (2-1/2) acres.

2. Minimum Lot Width: two hundred (200) feet.

3. Maximum Density: one (1) dwelling unit per two and one half (2-1/2) acres.

4. Maximum Impervious Coverage: twenty-five percent (25%).

5. Minimum Front Yard Setback: twenty-five (25) feet.

6. Minimum Side Yard Setback: twenty-five (25) feet.

7. Minimum Rear Yard Setback: twenty-five (25) feet.

8. Maximum Building Height: thirty-five (35) feet.

D. Development Standards.

1. One (1) secondary dwelling unit in accordance with Chapter 17.15 may be located on lots five (5) acres or more of total lot area, provided it does not exceed the gross floor area of the primary dwelling unit.

2. Structures and areas where animals are kept shall comply with the requirements of Chapter 17.18 Animal Raising and Keeping.

3. Off-street parking for the principal use shall be provided as specified in Chapter 17.09.

4. Development shall be located, sited and designed to blend in with the existing natural environment and minimize disruption to existing terrain, vegetation, drainage patterns, natural slopes and any other distinctive natural features.

E. Development design and site layout shall protect and preserve wetlands and riparian areas, critical wildlife habitats and natural features and landmarks.

F. Additional Standards for Conditional Uses:

1. Non-public schools and places of worship may be permitted if the traffic impacts can be mitigated and if adequate parking arrangements are made on site in accordance with Chapter 17.09 Off-Street Parking.

2. Commercial riding stables shall adhere to the requirements of Chapter 17.18 Animal Raising and Keeping.

Section 17.04.020 Residential Agricultural District (RA)

A. Characteristics and Objectives. The RA zoning district is intended for single family detached residential units with a maximum density of one (1) dwelling unit per acre. Incidental recreational, institutional, public and accessory uses compatible with the character of the district and customarily found in proximity to low density residential areas, may be permitted.

B. Other objectives for the RA district include:

   a. Allowing for larger lot development that assists in retaining the rural character of Fountain.

   b. Allowing for limited home-based businesses to help provide homeowners with additional economic means for maintaining permanent residency.

   c. Ensuring that new development is compatible with and enhances the character of existing residences and the natural environment.

C. Use Regulations.

   1. Permitted Principal Uses:

      a. Single family detached dwelling units, not including manufactured homes, and tiny homes as specified in Chapter 17.15.

      b. Agricultural activities as defined in this Title.

      c. Keeping of animals as specified in Chapter 17.18.

      d. Group homes for no more than eight (8) persons.

   2. Permitted Accessory Uses:

      a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot. Residential accessory uses and structures include, but are not limited to, sheds, play areas and equipment, detached garages, solar panels, landscape areas and gardens, well houses, and pools.

      b. Home-based businesses as specified in Chapter 17.19.

      c. Crop farming.

   3. Conditional Uses:

      a. Non-public schools.

      b. Places of worship.

      c. Group homes for more than eight (8) persons.

      d. Commercial riding stables.

      e. Child care facilities.

D. Dimensional Requirements.

1. Minimum Lot Area: one (1) acre.
2. Minimum Lot Width: one hundred and twenty (120) feet.
3. Maximum Density: one (1) dwelling unit per acre.
4. Maximum Impervious Coverage: twenty-five percent (25%).
5. Minimum Front Yard Setback: twenty-five (25) feet.
6. Minimum Side Yard Setback: ten (10) feet.
7. Minimum Rear Yard Setback: twenty (20) feet.
8. Maximum Building Height: thirty-five (35) feet.

E. Development Standards.

1. One (1) secondary dwelling unit in accordance with Chapter 17.15 may be located on lots five (5) acres or more of total lot area, provided it does not exceed the gross floor area of the primary dwelling unit.
2. Residential accessory structures may not be located between the public right of way and the primary building's face.
3. Parking for the principal use as specified in Chapter 17.09.
4. Additional Standards for Conditional Uses:
   a. Non-public schools and places of worship may be permitted if the traffic impacts can be mitigated and if adequate parking arrangements are made on site in accordance with Chapter 17.09 Off-Street Parking.
   b. Commercial riding stables shall adhere to the requirements of Chapter 17.18 Animal Raising and Keeping.

Section 17.04.030 Single Family Residential Small Lot District (R1)

A. Characteristics and Objectives.

1. The purpose of the R1 zoning district is to establish and preserve residential neighborhoods for detached single family units free from other uses except those which are compatible with, and serve the residents of, this district.

B. Use Regulations.

1. Permitted Principal Uses:
   a. Single family detached dwelling units, not including manufactured homes.
   b. Group homes for no more than eight (8) persons.
2. Permitted Accessory Uses:

a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot. Residential accessory uses and structures include, but are not limited to, sheds, play areas and equipment, detached garages, solar panels, landscape areas and gardens, and pools.

b. Home-based businesses as specified in Chapter 17.19.

3. Conditional Uses:

a. Non-public schools.

b. Places of worship.

c. Group homes for more than eight (8) persons

d. Child care facilities.

C. Dimensional Requirements.

1. Maximum Density: six (6) dwelling units per acre.

2. Minimum Lot Area: six thousand (6,000) square feet per dwelling unit.

3. Minimum Lot Width: sixty (60) feet per dwelling unit measured at building setback line.

4. Maximum Impervious Coverage: thirty-five percent (35%).

5. Maximum Building Height: thirty-five (35) feet.

6. Minimum Front Yard Setback: eighteen (18) feet.

7. Minimum Side Yard Setback: five (5) feet.

8. Minimum Rear Yard Setback: twenty (20) feet and twelve (12) feet for accessory buildings.

D. Development Standards.

1. Off-street parking for the principal use shall be provided as specified in Chapter 17.09.

2. Development shall be located, sited and designed to blend in with the existing natural environment and minimize disruption to existing terrain, vegetation, drainage patterns, natural slopes and any other distinctive natural features.

3. Development design and site layout shall protect and preserve wetlands and riparian areas, critical wildlife habitats and natural features and landmarks.

4. Additional Standards for Conditional Uses:

a. Non-public schools and places of worship may be permitted if the traffic impacts can be mitigated and if adequate parking arrangements are made either on site or on an adjacent site in accordance with Chapter 17.09 Off-Street Parking.

Section 17.04.040 Residential Mixed Use District (RMU)

A. Characteristics and Objectives.

1. The Residential Mixed Use District shall be located in those areas contiguous to the Fountain Downtown Mixed Use District and must be accessible by arterial or collector streets. The Residential Mixed Use District is intended to provide sites for combined residential and low impact commercial and service uses and to maintain a residential appearance of such sites by establishing appropriate site development standards. This district allows for higher density residential development in close proximity to commercial activity by:
    a. Encouraging growth to occur where land and service capacities can accommodate it.
    b. Ensuring that development is designed with sensitivity to nearby pre-existing development.
    c. Providing for a broader mix in the type and cost of housing available for all housing consumers.

B. Use Regulations.

1. Permitted Principal Uses. Any of the following uses are permitted if the gross floor area of a single building or structure containing the use does not exceed five thousand (5,000) square feet.
    a. Single family dwelling units, not including manufactured homes.
    b. Two-family dwellings and town homes.
    c. Multifamily dwellings not to exceed sixteen (16) dwelling units per acre.
    d. Professional offices, business offices, and studios.
    e. Retail stores and commercial establishments.
    f. Restaurants, breweries and taprooms.
    g. Personal services such as barber shops, beauty shops, business and office services, and travel and ticket agencies.
    h. Bed and breakfast establishments.
    i. Commercial accommodations.
    j. Places of worship.
    k. Educational centers, including daycare centers and cultural complexes.
    l. Regional transportation and parking facilities that support area transit.
    m. Group homes for no more than eight (8) persons.
2. Permitted Accessory Uses:
    a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.
    b. Home-based businesses as specified in Chapter 17.19.
3. Conditional Uses:
    a. Group homes for more than eight (8) persons.

C. Dimensional Requirements.

1. Minimum Lot Area: five thousand (5,000) square feet.
2. Minimum Lot Width: fifty (50) feet.
3. Maximum Residential Density: sixteen (16) dwelling units per acre.
4. Maximum Impervious Coverage: eighty percent (80%).
5. Maximum Building Height: thirty-five (35) feet
6. Minimum Front Yard Setback: none.
7. Minimum Side Yard Setback: five (5) feet.
8. Minimum Rear Yard Setback: five (5) feet.

D. Development Standards.

1. Off-street parking shall be provided as specified in Chapter 17.09.
2. Open Space Requirements:
   a. Common Open Space. At least twenty percent (20%) of each site shall be landscaped. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
      i. Minimum Outdoor Space for Residential Development. At a minimum, each unit shall have a total of forty-eight (48) square feet of outdoor space, whether provided for individual units as private outdoor space or as common open space. Private outdoor space includes private outdoor balconies, patios, or decks attached to individual units. Minimum length and width of each private outdoor space shall be eight (8) by six (6) feet.
      ii. Minimum Outdoor Space for Mixed Use and Nonresidential Development. Every nonresidential and mixed use development shall provide common outdoor space no less than a minimum width of twenty (20) feet and a minimum depth of twenty (20) feet as an amenity for the tenants, customers and visitors and shall be comfortable, secure and inviting spaces for a variety of activities during all hours and seasons while maximizing opportunities for use. These spaces shall be owned and maintained by the property owner, and be accessible to the public.
3. All development shall be designed so that for the given location, egress points, grading and other elements of the development could not be reasonably altered to:
   a. Reduce the number of access points onto an arterial collector or local street.
   b. Minimize adverse impacts on any existing or planned residential uses.
   c. Improve pedestrian or vehicle safety within the site and exiting from it.
   d. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.

E. Development in the Residential Mixed Use District, including buildings, walls and fences shall be so sited to:

1. Complement existing development in scale and location.
2. Set back upper stories to help reduce the apparent bulk and scale of a building and promote human scale, while also providing for an effective architectural treatment if the building is adjacent to a less intense use.
3. Walls visible from streets or public spaces shall utilize articulation or other techniques such as piers, modulation, bays, recesses, and detailing; combinations of materials and textures as well as their detailing; and applied elements, such as art and trellises. Generally buildings should have no "back side."
4. Provide sidewalks as specified in the City's Subdivision Regulations or an off road system of pedestrian and bicycle trails of greater than five (5) feet in width.

F. Additional Standards for Conditional Uses:

1. Professional activities and convenience businesses, if located on the ground floor of any residential development, shall be accessible from an arterial or collector street and adequate parking can be accommodated on-site in accordance with Chapter 17.09 Off-Street Parking.

Section 17.04.050 Multifamily Residential District (MF)

A. Characteristics and Objectives. This district is intended to provide for the development of multifamily residential uses in areas where such development would be compatible with surrounding uses and where such intensive use would not create service problems. Incidental recreational, institutional, public, and accessory uses customarily found in proximity to medium and higher density residential areas may be permitted.

B. Use Regulations.

1. Permitted Principal Uses:
   a. Multifamily dwelling.
   b. Single family, not including manufactured homes.
   c. Two-family dwellings.
   d. Rooming house, boarding house and dormitory.
   e. Group homes of no more than eight (8) persons.
2. Permitted Accessory Uses:
   a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.
   b. Home-based businesses as specified in Chapter 17.19.
3. Conditional Uses:

a. Group homes of more than eight (8) persons.

b. Child care facilities.

c. Institutional and quasi-public uses: community center, detoxification center, family care home, group home, health care support facility, religious institution, and homeless shelter.

C. Dimensional Requirements.

1. Minimum Lot Area:

a. Single Family Residential: six thousand (6,000) square feet.

b. Two-family Residential: seven thousand (7,000) square feet.

c. Multifamily Residential: ten thousand (10,000) square feet.

2. Lot Area Per Residential Unit: one thousand (1,000) square feet.

3. Minimum Lot Width:

a. Single Family Residential: sixty (60) feet.

b. Two-family Residential: sixty (60) feet.

c. Multifamily Residential: seventy-five (75) feet.

4. Maximum Density: sixteen (16) dwelling units per acre.

5. Maximum Building Height: forty (40) feet.

6. Minimum Open Space: two hundred fifty (250) square feet per dwelling unit.

7. Maximum Impervious Surface: none.

8. Minimum Front Yard Setback: twenty-five (25) feet.

9. Minimum Side Yard Setback: five (5) feet for the first story, plus an additional five (5) feet for each additional story.

10. Minimum Rear Yard Setback: twenty (20) feet.

D. Development Standards.

1. All development shall be designed so that for the given location, egress points, grading and other elements of the development, could not be reasonably altered to:

a. Reduce disruption to the existing terrain, vegetation or other natural site features.

b. Minimize adverse impacts on any existing or planned residential uses.

c. Improve pedestrian or vehicle safety within the site and exiting from it.

d. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.

2. All development including buildings, walls and fences shall be so sited to:

a. Complement existing development in scale and location.

b. Provide sidewalks as specified in the Subdivision standards or an off road system of pedestrian and bicycle trails of greater than five (5) feet in width.

c. Create pocket parks or green spaces that at a minimum provide seating and landscaping.

3. Off-street parking shall be provided as specified in Chapter 17.09.

Section 17.04.060 Manufactured Housing Park District (MHP)

A. Characteristics and Objectives.

1. As used in this Chapter, a manufactured housing park shall be designated MHP. Manufactured Housing Parks are composed of residential, medium to low-density occupancy of manufactured homes on areas of land having undivided individual, joint or common ownership. This zoning district replaces the district previously entitled MHPS and applies exclusively to those mobile home parks that were previously subject to the MHPS zoning district.

2. Location of Manufactured Housing Restricted. Manufactured housing shall be located only in a Manufactured Housing Park or Manufactured Housing Subdivision.

3. Non-conforming manufactured housing parks shall comply with Section 17.27.020.C.1. Application for Rezoning. The applicant for a MHP district shall make written application for rezoning which shall be processed in the manner as set forth in Chapter 17.24. The application shall be accompanied by a site development plan that shall contain the information in Chapter 17.23.

B. Use Regulations.

1. Permitted Principal Uses:

a. Any single family dwelling regardless of its method of assembly, including Type 1 and Type 2 manufactured homes, module homes assembled after 1976, factory built homes, tiny homes or on-site built homes, provided said on-site built homes have been constructed no more than ten (10) years prior to the effective date of this Title.

b. Community center.

c. Group home of less than eight (8) persons.

2. Permitted Accessory Uses:

a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot or on an adjacent lot.

b. Recreational facilities.

c. Service facilities.

d. Storage facilities.

3. Conditional Uses:

a. Recreational vehicle, occupied.

C. Dimensional Requirements.

1. Minimum Manufactured Housing Park Area: three (3) contiguous acres.
2. Minimum Manufactured Housing Park Width: two hundred (200) feet.
3. Maximum Density: eight (8) manufactured homes per gross acre.
4. Maximum Building Coverage: sixty-five percent (65%) of manufactured housing lot or space.
5. Minimum Individual Lot or Space Area:
   a. Singlewide Manufactured Housing: three thousand (3,000) square feet.
   b. Doublewide or Expandable Manufactured Housing: four thousand (4,000) square feet.
6. Individual Lot or Space Width: forty (40) feet.
7. Minimum Setbacks: Within a manufactured housing park, dwelling sites are not sited on defined lots. Therefore, all setbacks shall be calculated based on the distance between structures and streets.
8. Minimum Distance Between Structures and From Streets: fifteen (15) feet.
9. Maximum Structural Height: thirty (30) feet.

D. Development Standards.

1. All manufactured homes are required to meet the provision of CRS Article 32, Title 24 that requires comprehensive regulation of the installation of manufactured homes to ensure the safety, affordability and performance of such dwelling units.
2. Interior Streets. All interior streets shall be hard-surfaced with asphalt or concrete and shall provide convenient access to each individual lot or space. Street widths shall be in accordance with adopted City street standards.
3. Walkways. Walkways not less than four (4) feet in width and having an all-weather surface shall be provided from Manufactured Homes to service buildings.
4. Lighting. Interior streets, parking areas and walkways shall be adequately lighted to provide safe movement of vehicles and pedestrians at night.
5. Common Storage Area. An enclosed individual or common storage area for the use of the manufactured housing park residents shall be provided in an amount equal to eighty (80) square feet per manufactured home.
6. Landscaping. Landscaping which complies with the provisions set forth in Chapter 17.11 shall be submitted as part of the required site plan for the park. All setback areas, with the exception of driveways and sidewalks, and other open space shall be landscaped to soften the appearance of the manufactured housing park.
7. Recreation Area. Not less than ten percent (10%) of the total land area of the manufactured housing park shall be devoted to space for private recreation and play areas.

8. Skirting. All manufactured housing shall be skirted between the floor and the ground surface with durable, all-weather construction as manufactured specifically for covering the undercarriage area of the manufactured housing park.

9. Replacement Mobile Homes. No replacement mobile home or manufactured home shall be moved onto any lot unless such mobile home or manufactured home is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. §5401 et seq., as amended or is certified by the Colorado Division of Housing pursuant to Section 24-32-701, et seq., C.R.S. and was constructed no more than ten (10) years prior to the effective date of this Title. A mobile home presently located within a mobile home park that is relocated within the same mobile home park is exempted from the requirements of this Chapter.

Section 17.04.070 Manufactured Housing Subdivision District (MHS)

A. Characteristics and Objectives. As used in this Section, a planned manufactured housing subdivision district shall be designated MHS. These standards are designed for promoting a low-medium density, quiet environment for manufactured homes on individually owned lots in manufactured housing subdivisions. It is intended that these standards shall be such that the quality of an adjacent neighborhood is not detrimentally affected by a manufactured housing subdivision.

B. Use Regulations.

1. Permitted Principal Uses:

   a. Type I manufactured homes, modular homes assembled after 1976, factory built homes, tiny homes and on-site built homes, provided said on-site built homes have been constructed no more than ten (10) years prior to the effective date of this Title.

   b. Accessory buildings and uses incidental to a permitted principal use.

   c. Schools, public and non-public.

   d. Places of worship.

2. Permitted Accessory Uses:

   a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot or on an adjacent lot.

   b. Recreational facilities.

   c. Home-based businesses as specified in Chapter 17.19.

3. Conditional Uses:

   a. Child care facilities.

C. Dimensional Requirements.

1. Minimum Manufactured Housing Subdivision Area: five (5) contiguous acres.

2. Minimum Lot Area: four thousand five hundred (4,500) square feet.

3. Minimum Lot Width: fifty (50) feet.
4. Minimum Front Yard Setback: twenty (20) feet.
5. Minimum Side Yard Setback: five (5) feet.
6. Minimum Rear Yard Setback: ten (10) feet.
7. Maximum Structural Height: thirty (30) feet.
8. Maximum Structural Coverage: sixty percent (60%).

D. Performance Standards. All modular structures and manufactured homes shall meet the following criteria:

1. Must be partly or entirely commercially manufactured in a factory.
2. Must be a minimum of twenty-four (24) feet wide and thirty-six (36) feet long.
3. The manufactured home and any additions to it must be permanently anchored to a permanent foundation that has been certified by a professional engineer licensed by the State of Colorado.
4. The manufactured home and any additions to it must have standard exterior siding.
5. The manufactured home and any additions to it must have a pitched roof structure with standard house shingles or other standard roofing materials.
6. The manufactured home must require a change in plane on two sides of the home through the use of one or more of the following: porches, bay windows, patios, offset garages or home additions, breezeways, porticos or other similar site-built add-ons.
7. Is certified pursuant to the "National Manufactured Housing Construction and Safety standards Act of l974" 42 USC 5401, etc., as amended.
8. Meets or exceeds, on an equivalent performance engineering basis, the standards established by HUD code or the Pikes Peak Regional Building Code, and the Uniform Code for Abatement of Dangerous Buildings as adopted in the City of Fountain Municipal Code.
9. In determining the engineering basis, normal engineering calculations for testing following commonly accepted engineering practices, all components and sub-systems of a manufactured home must meet or exceed health, safety and functional requirements to the same extent as other single family dwellings as outlined in the Pikes Peak Regional Building Code.
10. As an equivalent performance engineering standard for manufactured homes, snow loads shall meet the requirements as outlined in the Pikes Peak Regional Building Code, as adopted by the City of Fountain.

E. Development Standards for Manufactured Homes.

1. Perimeter Fencing. Perimeter fencing for manufactured housing in any MHS district is required and shall not be located within the setback cited in C.4. of this Section.
2. Fences shall conform to standards set forth in Chapter 17.11. Landscaping generally.
3. All lots within a MHS shall comply with the landscaping standards set forth in Chapter 17.11.

Section 17.04.080 Downtown Mixed Use District (MU)

A. Characteristics and Objectives. The Downtown MU zoning district is intended to accommodate specialized government functions, specialty retail and housing. The purpose of this district is to promote the development of Fountain's historic downtown area district for retail, service commercial, recreational, institutional and secondary residential uses and to enhance the visual character, scale and vitality of the downtown by:

1. Providing convenient business and other services for resident families and visitors to Fountain.
2. Providing a broad mixture of uses within a compact pedestrian oriented environment.
3. Facilitating small business development and vitality.
4. Building a clear identity for the historic central core of Fountain that is distinct from other parts of the community.

B. Use Regulations.

1. Permitted Principal Uses:

   a. Small businesses that provide services or limited and specialty retail establishments on the ground floor level.
   b. Personal services and servicing facilities that support activities within the downtown core.
   c. Restaurants.
   d. Entertainment facilities, not including adult-oriented uses.
   e. Commercial services.
   f. Offices: professional, financial, insurance personal services and other office uses deemed to be of similar impact by the Zoning Administrator.
   g. Residential dwelling units, including two-family dwellings, condominiums, town houses and group homes, only if located above ground floor nonresidential uses and not exceeding sixteen (16) dwelling units per acre.
   h. Recreation, cultural and educational institution facilities, public or non-public.
   i. Commercial accommodations only if located above ground floor nonresidential uses.
   j. Small inns and lodges ranging from five (5) to twenty (20) rooms.
   k. Public or private open spaces, parks and common areas.
   l. Places of worship.

2. Permitted Accessory Uses:

   a. Storage of material, such as equipment, tools etc., accessory to any of the uses listed in permitted uses for this district, provided all such storage is located within a structure.
   b. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.

3. Conditional Uses:
   a. Residential dwelling units, such as multifamily dwelling units, including townhomes, not exceeding sixteen (16) dwelling units per acre.
   b. Theaters, meeting rooms and convention centers.
   c. Hospitals and clinic facilities.

C. Dimensional Requirements.
   1. Minimum Lot Area: none.
   2. Minimum Lot Width: none.
   3. Maximum Impervious Coverage: ninety percent (90%).
   4. Maximum Building Height: forty (40) feet or three (3) stories, whichever is lower.
   5. Street Setbacks: within eight (8) horizontal feet of a street property line.
   6. Minimum Side Yard Setback: none is required if the side wall is a party wall; but ten (10) feet shall be allowed if the side wall is not a party wall.
   7. Minimum Rear Yard Setback: none.

D. Development Standards.
   1. Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation, and ease of snow removal.
   2. Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.
   3. Buildings shall be designed to minimize snow shedding and runoff onto pedestrian areas and public ways.
   4. All activities shall be wholly contained within buildings except for access, parking, loading and if screened by sight impervious fencing or plantings, storage and refuse containers.
   5. Driveways crossing sidewalks on arterial streets may serve parking and loading areas only, but shall not serve any drive-in, drive-through or auto service facility.
   6. An exterior front wall of a building (street grade) shall not exceed an increment of twenty-five (25) feet without being differentiated by settings providing structural bays, clearly expressed columns or other architectural elements to add interest at the sidewalk edge.

Section 17.04.090 Central Mixed Use Business District (CMU)

A. Characteristics and Objectives. The Central Mixed Use Business zone district is intended to accommodate specialized government functions, specialty retail and housing. The purpose of this district is to promote the development of Fountain's central business area district for retail, service commercial, recreational institutional and residential uses and to enhance the visual character, scale and vitality of Fountain's downtown by:

1. Providing convenient business and other services for residents and visitors to Fountain.
2. Providing a broad mixture of uses with consolidated access points as required by the Colorado Department of Transportation (CDOT) access management permit process.
3. Facilitating small business development and vitality.
4. Building a clear identity for the corridor that is distinct from other parts of the community.

B. Use Regulations.

1. Permitted Principal Uses:

   a. Vehicle and boat sales and services, including auto detail, car washes, gas stations and auto service/repair and accessory storage or parking of vehicles which are awaiting service or pick-up, but excluding auto body and paint shops and storage of junk vehicles.

   b. Commercial accommodations, including bed & breakfast inns.

   c. Commercial establishments engaged in providing personal or financial services to the general public, including but not limited to: banking, dry cleaning, laundromats, tailoring, shipping and receiving services that cater to walk-in customers, barber and beauty shops, garden shops, appliance stores, feed stores, fishing bait and tackle shops and businesses that offer goods and services for sale.

   d. Indoor entertainment facilities, excluding adult-oriented uses and including but not limited to, bowling alleys, arcades (pinball, video, etc.), movie theaters, dinner theaters, skating rinks, billiard parlors, teen clubs, concert or music halls and organizational clubs.

   e. Offices used for the transaction of business, professional, or medical services and activities including, but not limited to: real estate brokers, non-profit organizations, travel agents, advertising or insurance agents, lawyers, physicians, dentists, architects, engineers, accountants, and other licensed professionals.

   f. Eating and drinking establishments, including but not limited to: bakeries and delicatessens, cocktail lounges, taverns and bars, coffee shops, fountain and sandwich shops, restaurants and brew pubs, and nightclubs with or without live entertainment, all of which may provide off site catering services. Drive-thru window services shall be allowed in this district provided they meet all other development criteria.

   g. Indoor recreation, cultural and educational institution facilities, both public and non-public including, but not limited to: art gallery or studio, gymnasium, library, museum, non-public school, vocational training facilities, amphitheaters, and performing arts studios.

   h. Residential dwelling units, including two-family dwellings, condominiums, townhomes, apartment complexes, live/work residences, and group homes, not exceeding sixteen (16) dwelling units per acre.

   i. Retail establishments.

   j. Child care facilities.

k. Transit facilities and structures such as park n' ride lots; public parking lots and bus stops.

2. Permitted Accessory Uses:

a. Storage of materials, such as equipment, tools etc., accessory to any of the uses listed in Permitted Principal and Conditional Uses for this district, provided all such storage is located within a structure. No outside storage shall be permitted.

b. Any accessory building, structures or uses in addition to and in conjunction with any permitted use in the district.

c. Home-based businesses as specified in Chapter 17.19.

3. Conditional Uses:

a. Hospitals, medical and clinic facilities over twenty-five thousand (25,000) square feet.

b. Outdoor entertainment, entertainment facilities (not including adult-oriented uses), recreation and cultural facilities.

c. Automotive body, or paint shop.

d. Single family dwelling.

e. Pawn shops.

f. Mortuary and funeral home.

C. Dimensional Requirements.

1. Minimum Lot Area: none.

2. Minimum Lot Width: none.

3. Maximum Impervious Coverage: seventy-five percent (75%) excluding sidewalks, pedestrian plazas and other amenities.

4. Minimum Landscaped Area: ten percent (10%).

5. Maximum Building Height: forty (40) feet or three (3) stories, whichever is less.

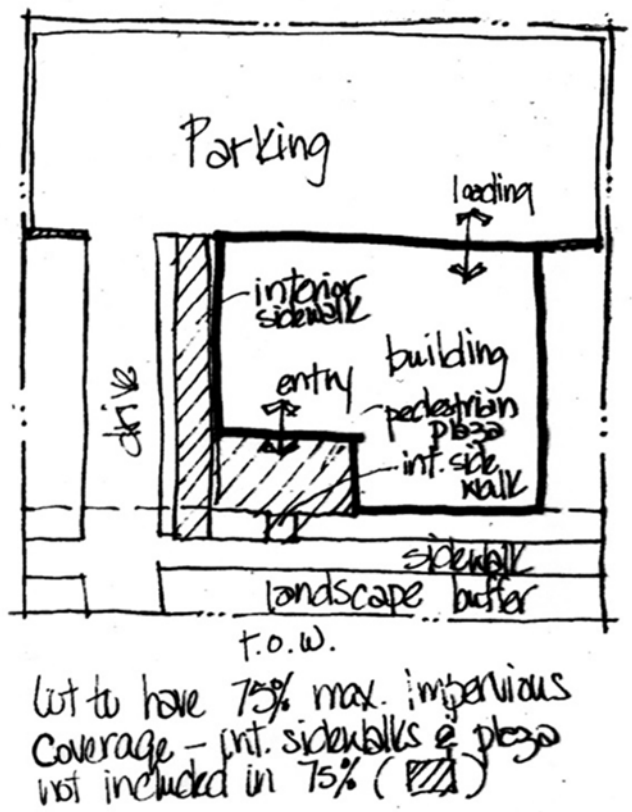
6. Street Setbacks: ten (10) feet from the front lot line.

7. Side Yard Setback: none is required if the side wall is a party wall; but five (5) feet is required if the side wall is not a party wall.

8. Rear Yard Setback: none is required if the rear wall is a party wall; but five (5) feet is required if the rear wall is not a party wall.

9. Transition Between Uses: Section 17.07.050 of this Ordinance shall not apply to this zone district.

10. Landscape Setback: Section 17.11.010.D shall not apply to this zone district.



D. Development Standards.

1. Building Orientation and Function:

a. Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation, and ease of snow removal.

b. Buildings shall be designed so as to minimize snow shedding and runoff onto pedestrian areas and public ways.

c. Buildings shall orient facades and main entries toward the street, toward a plaza or toward a pedestrian way that leads directly to a street.

d. Residential, employment, retail, service and open space shall be arranged and designed such that they are convenient to and compatible with each other.

e. Minimum of two of the following design elements shall be incorporated for each fifty (50) horizontal feet of a building façade or wall while incorporating architectural consistency:

i. Changes in color, texture, or materials.

ii. Projections, recesses, and reveals, expressing structural bays, entrances, or other aspects of the architecture with a minimum change of plane of twelve (12) inches.

iii. Grouping of windows or doors.

iv. Trellis, arcades, or pergolas providing pedestrian interest.

f. Building facades facing a primary access street shall have clearly defined, highly visible customer entrances that feature no less than two of the following:

i. Canopies or porticos.

ii. Overhangs, recesses/projections.

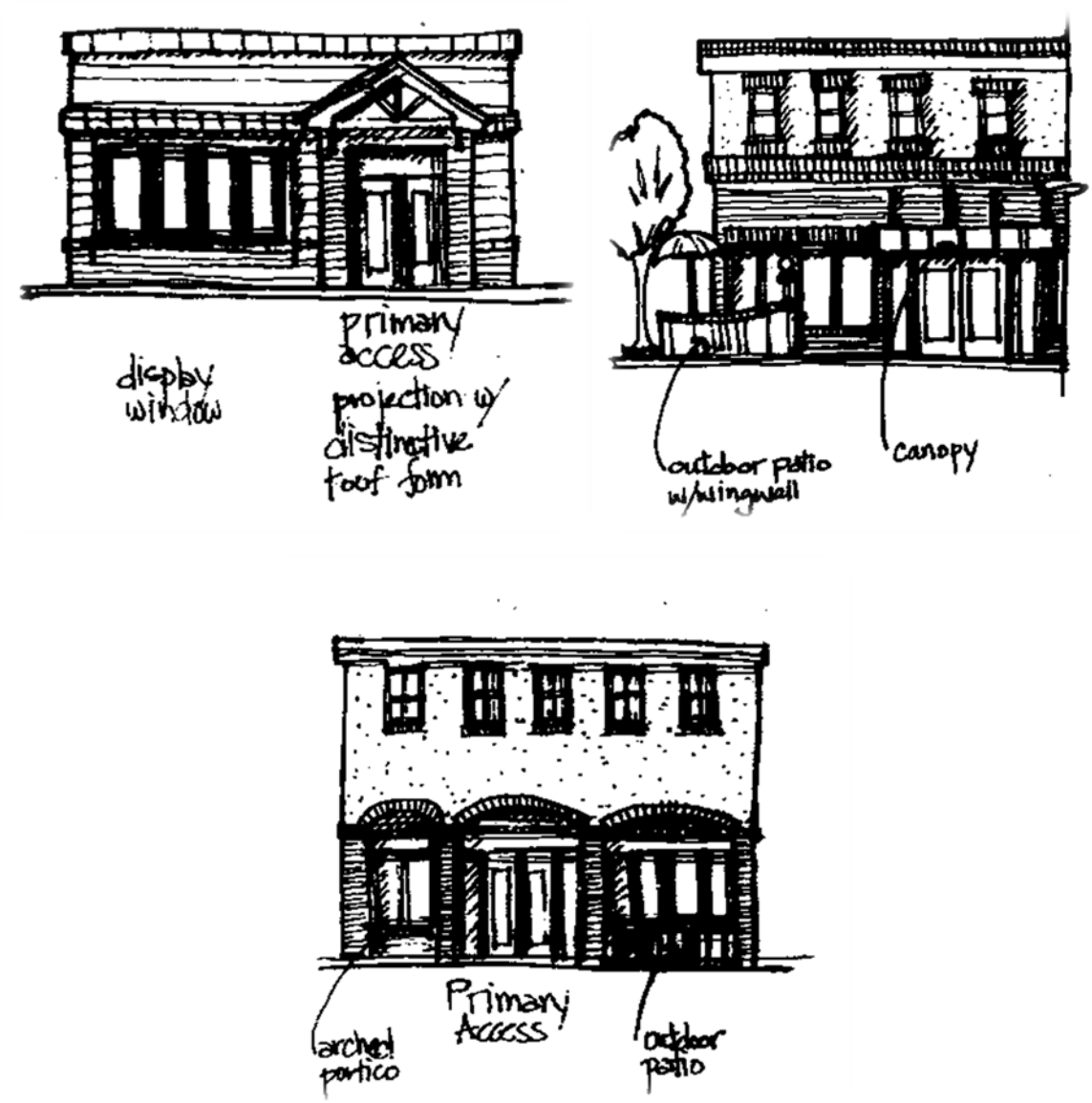
iii. Distinctive roof forms that vary in pitch and slope.

iv. Arches.

v. Outdoor patios.

vi. Display windows.

vii. Planters or wing walls that incorporate landscaped areas and/or places for sitting.



2. Site Layout:

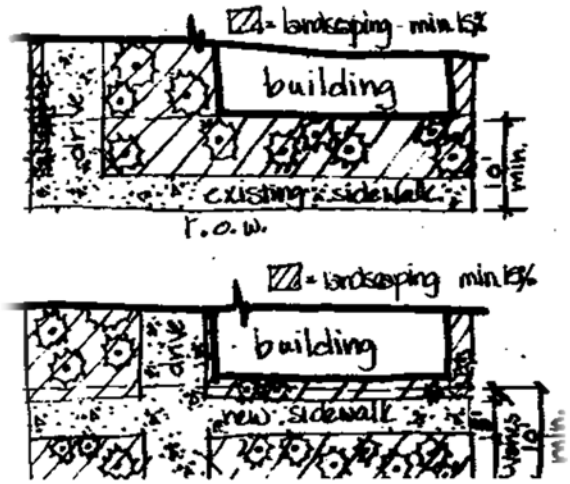
   a. Every lot within this district shall provide a defined edge treatment and clearly defined driveway entrances along the street frontage.

   b. Entrance drives shall be readily observable to the first time visitor.

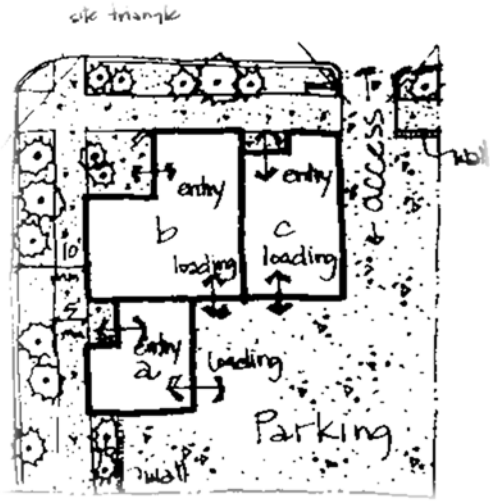
   c. All development including buildings, walls and fences shall provide sidewalks at least five (5) feet in width between the front property line and any existing or proposed improvements (improvements shall include parking areas, walls, fences, building, storage areas, etc.) unless a sidewalk already exists along the street frontage.

   d. All development shall provide one of the following between the front property line and the outdoor parking area or the service area:

      i. A landscaped area of a minimum ten (10) feet wide containing a minimum forty percent (40%) landscaping; or



      ii. A building, building façade, decorative wall, entry feature or other similar structure.



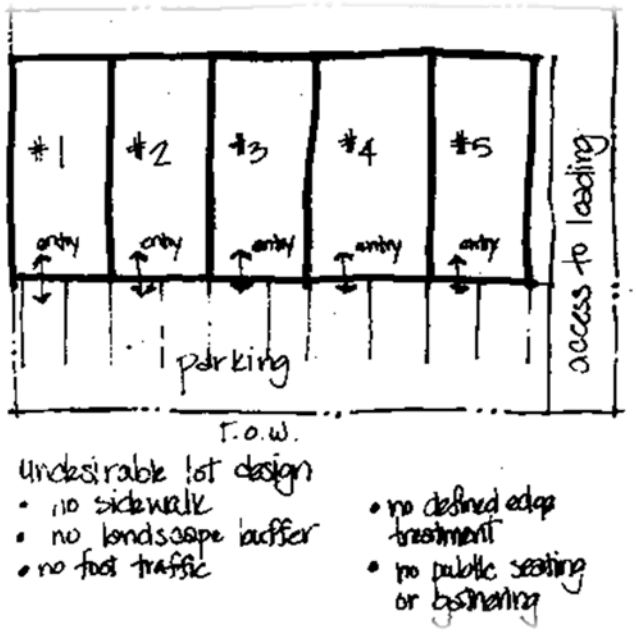
e. All development shall provide at least two (2) or more of the following design features:

   i. Create useable pedestrian plaza or green spaces that are accessible to the public and at a minimum provide seating and landscaping.

   ii. Public or private outdoor seating areas.

   iii. Inviting street level storefront that is oriented toward pedestrians and provides visually interesting forms or displays.

   iv. Parking placed totally behind the primary structure, below grade, in a parking structure, or limit parking to one side of the building. In larger mixed-use projects, consider placing the parking within the interior of the project.



3. Parking, Vehicle Access and Loading Areas:

a. Parking lots shall be screened from the street by low walls, landscaping and/or railings that effectively conceal parked cars.

b. Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.

c. Parking lots shall be located at the side or rear of the buildings. Avoid locating parking between a building's frontage and the street or open space.

d. Drive-throughs, vehicle bays and paint booths shall be located to the side and rear of buildings.

e. Driveways shall be perpendicular to the street.

f. The number and width of driveways and curb cuts shall be minimized as required by CDOT. The sharing of vehicle entries between two adjacent lots is strongly encouraged.

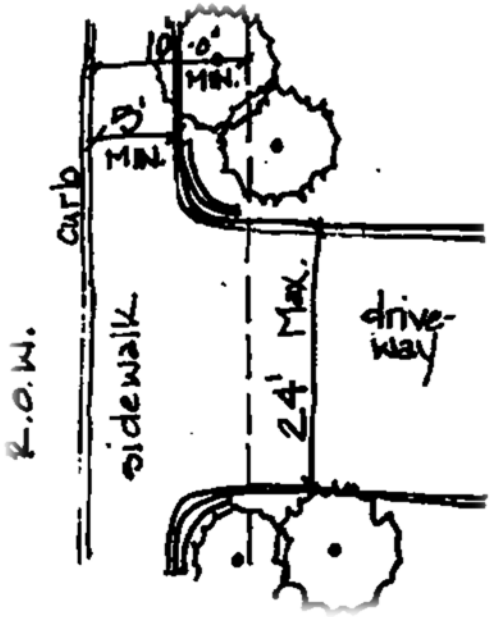
g. Continuous walkways shall provide connections to and between:

   i. The primary entrance or entrances to each building, including pad site buildings.

   ii. All parking lots or parking structures that serve such buildings.

   iii. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the development.

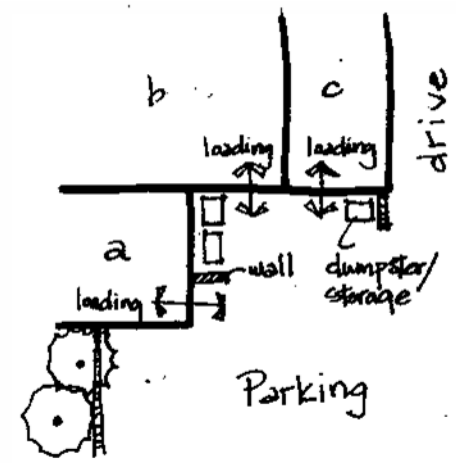
   iv. Any public sidewalk system along the perimeter streets adjacent to the development.



4. Service Areas, Trash Enclosures, Utility and Mechanical Equipment Locations:

   a. Storage and refuse containers and collection areas shall be screened by a six (6) foot high masonry wall, styled to match the material of adjacent walls or the main building on the site and shall not front on to any street.

b. Refuse storage and pick-up areas shall be combined with other service and loading areas.



c. Utility meters shall not be mounted on the front or street facing façade of any building, but shall be mounted on the side or rear façade unless required by the utility provider.

d. All mechanical equipment and utility meters placed on roof tops or the sides of a building shall be screened by way of screen walls, paint treatments, landscaping or similar techniques.

e. Application:

   i. See Section 17.06.020 and Section 17.09.040 as they relate to the application of this Section to existing, new or changes in land uses, buildings, site development, additions, occupancy or parking.

   ii. Compliance with requirements as stated above to the extent practical and feasible for landscaping, screening and building improvements shall be required for all changes to a site, building or use and any improvements to the visual nature of the landscaping, screening or building that are not addressed in 17.06.020 and Section 17.09.040.

Section 17.04.100 Neighborhood Commercial District (NC)

A. Characteristics and Objectives. Neighborhood Commercial zoning districts shall be established in those areas, which are located along community collector streets and within walking distance of existing neighborhoods. This district is designed to create walking and short distance destinations for residents. It is intended for small independently owned retail and service establishments, such as legal and professional services, cafes and restaurants, and specialty retail that are not dependent on high traffic volumes. These uses are of such character, scale, appearance and operation as to be compatible with the character of surrounding residential areas.

B. Use Regulations.

   1. Permitted Principal Uses. If the gross floor area of a single building or structure containing the use does not exceed three thousand (3,000) square feet:

a. Specialty retail and service establishments, such as florists, studios, coffee shops, small appliance stores, bakery, candy and ice cream shops, barber shops/beauty salons, stationary store, pet shops and gift shops.

b. Offices: Professional, financial, insurance, personal services, medical and other office uses deemed to be of similar impact to the zoning administrator.

c. Restaurants, without drive-through facilities.

d. Convenience store without gas pumps.

2. Permitted Accessory Uses:

a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.

3. Conditional Uses:

a. Any of the permitted principal uses where the gross floor area of a single building containing the use exceeds three thousand (3,000) square feet.

b. Convenience stores with gas pumps.

C. Dimensional Requirements.

1. Minimum Lot Area: none.

2. Minimum Lot Width: none.

3. Maximum Impervious Coverage: eighty percent (80%).

4. Maximum Building Height: thirty (30) feet.

5. Minimum Front Yard Setback: ten (10) feet.

6. Minimum Side Yard Setback: five (5) feet; however, if located adjacent to a residential district or public use, the minimum setback shall be ten (10) feet.

7. Minimum Rear Yard Setback: fifteen (15) feet.

D. Development Standards.

1. All development shall be designed so that for the given location, egress points, grading and other elements of the development, could not be reasonably altered to:

a. Reduce the number of access points onto an arterial or collector street.

b. Minimize adverse impacts on any existing or planned residential uses.

c. Improve pedestrian or vehicle safety within the site and exiting from it.

d. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.

2. Reduce the number of removed trees measuring four (4) inches in diameter and taller than five (5) feet above ground level.

3. All development including buildings, walls and fences shall be so sited to:
    a. Complement the scale and location of existing development.
    b. Provide sidewalks as specified in the subdivision standards or an off road system of pedestrian and bicycle trails of greater than six (6) feet in width.
    c. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
        i. New development shall minimize unused or unusable public or private areas in the side or rear yards.
        ii. Parking and loading areas for all uses must be paved and screened from view, by use of either fences or landscaping, of any adjacent residential properties.
4. Accessory uses that are customarily incidental to the permitted principal uses shall represent less than thirty-five percent (35%) of the ground floor area on the lot.
5. Garages or other buildings intended for vehicular storage shall provide a minimum eighteen (18) foot setback between property line and garage door into the structure to accommodate vehicle driveway parking and prevent vehicle encroachment into the access street or alley.
6. No drive up facility of any sort is permitted.
7. Additional Standards for Conditional Uses:
    a. For any of the permitted principal uses where the gross floor area of a single building containing the use exceeds three thousand (3,000) said building(s) shall designed to be consistent with the desired character of the area and shall not adversely affect other uses in the area.

Section 17.04.110 Village Center District (VC)

A. Characteristics and Objectives. Village Center zoning districts shall be established in those areas, which are located at the intersection of at least one (1) community arterial street and community collector street. The VC zoning district is intended to provide shopping goods and services for surrounding neighborhoods, such as small-scale retail, professional offices and services, live/work development and medical offices. The intent of this zoning district is to encourage a mix of complementary commercial uses that share ingress and egress and clustered on-site parking and that are linked by pedestrian walkways, corridors and plazas.

B. Use Regulations. Any of the following uses are permitted if the gross floor area of a single building or structure containing the use does not exceed one hundred thousand (100,000) square feet.
    1. Permitted Principal Uses:
        a. Retail establishments.
        b. Offices: professional, financial, insurance, personal services, medical and other office uses deemed to be of similar impact by the Zoning Administrator.
        c. Veterinary clinic (no boarding).

d. Pharmacies.

e. Studios for professional work or services.

f. Ambulance facilities.

g. Eating and drinking establishments.

h. Places of worship.

i. Commercial uses and professional services deemed to be of similar impact.

j. Health or fitness center; personal fitness, including crossfit gyms; martial arts school; dance, yoga or pilates studios.

k. Auto service/repair.

2. Permitted Accessory Uses:

a. Storage of materials accessory to any of the uses listed in permitted uses for this district provided all such storage is located within a structure.

b. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.

3. Conditional Uses:

a. Recreational facilities and clubs.

b. Theaters, meeting rooms and convention centers.

c. Hospitals and clinic facilities.

d. Indoor entertainment facilities, excluding adult-oriented uses and including but not limited to, bowling alleys, arcades (pinball, video, etc.), movie theaters, dinner theaters, skating rinks, billiard parlors, teen clubs, concert or music hall and organizational clubs.

e. Child care facilities.

f. Non-public schools.

g. Lodging and meeting facilities, including hotels, motels and extended stay lodging, reception and banquette halls, event and conference centers, and excluding RV parks.

C. Dimensional Requirements.

1. Minimum Lot Area: one (1) acre.

a. Parcels of less than one (1) acre may be allowed if the applicant, through joint access easements or other negotiated means, has provided for:

i. Shared ingress and egress access between properties.

ii. Consolidated access points with abutting properties.

iii. Contiguous sidewalks with abutting properties.

iv. Two (2) or more of the following:

(a) An integrated pattern of streets.

(b) Outdoor spaces.

(c) Building styles.

(d) Land uses on any parcel abutting the parcel.

2. Minimum Lot Width: none.
3. Maximum Impervious Coverage: eighty-five percent (85%).
4. Maximum Building Height: forty (40) feet.
5. Minimum Front Yard Setback: twenty (20) feet.
6. Minimum Side Yard Setback: ten (10) feet.
7. Minimum Rear Yard Setback: twenty (20) feet.

D. Development Standards.

1. Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation, and ease of snow removal.
2. Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.
3. Buildings shall be designed to minimize snow shedding and runoff onto pedestrian areas and public ways.
4. Driveways crossing sidewalks on arterial streets may serve parking and loading only, but may not serve any drive-in, drive-through or auto service facility.
5. All activities shall be wholly contained within buildings except for access, parking, loading and if screened by sight impervious fencing or plantings, storage and refuse containers.
6. New development shall minimize unused or unusable public or private areas in the side or rear yards.
7. All development shall be designed so that for the given location, egress points, grading and other elements of the development could not be reasonably altered to:
   a. Reduce the number of access points onto an arterial or collector street.
   b. Minimize adverse impacts on any existing or planned residential uses.
   c. Improve pedestrian or vehicle safety within the site and exiting from it.
   d. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.
   e. Reduce the number of removed trees measuring four (4) inches in diameter.

Section 17.04.120 Regional Commercial District (RC)

A. Characteristics and Objectives. RC zoning districts shall be established in those areas which are in close proximity to Interstate 25 or the proposed Powers Boulevard extension and/or highly visible from major roadways and have easy and safe access. This district is oriented to the traveler in the region and includes by way of example commercial uses such as gas stations, restaurants, motels and related businesses. It is intended to encourage a broad range of commercial services for visitors and residents, which are conveniently accessible by automobile, and which are designed to complement each other in character, scale, and proximity by:

1. Accommodating retail sales, services, and amenities which are oriented to serving a majority of the needs of residents and visitors and which generate substantial volumes of traffic.
2. Encouraging well planned attractive clusters or groupings of development that complement the scale of existing structures.
3. Encouraging a mix of complementary commercial uses that share ingress, egress, and clustered on-site parking, and that are linked by pedestrian corridors, sidewalks, or plazas.

B. Use Regulations.

1. Permitted Principal Uses:
   a. Retail establishments.
   b. Lodging and meeting facilities, including hotels, motels and extended stay lodging, reception and banquet halls, event and conference centers, and excluding RV parks.
   c. Entertainment facilities and complexes, not including adult-oriented uses.
   d. Automobile repair/service stations.
   e. Restaurants, breweries and tap rooms.
   f. Destination retail, shopping centers, shopping malls, including large specialty retail establishments that people will drive distances to shop such as membership warehouses and natural food chain stores.
   g. Office campuses with convenience retail located within each building.
   h. Regional transportation facilities.
   i. Child care facilities.
2. Permitted Accessory Uses:
   a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.
3. Conditional Uses:
   a. Outdoor recreation facilities.

b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.

C. Dimensional Requirements.

1. Minimum Lot Area: twenty one thousand seven hundred eighty thousand (21,780) square feet or one-half (½) acre.
2. Minimum Lot Width and Depth: one hundred fifty (150) feet wide; one hundred fifty (150) feet deep.
3. Maximum Impervious Coverage: eighty percent (80%).
4. Maximum Building Height: forty (40) feet.
5. Minimum Front Yard Setback: twenty (20) feet.
6. Minimum Side Yard Setback: twenty (20) feet.
7. Minimum Rear Yard Setback: twenty-five (25) feet.

D. Development Standards.

1. All development shall be designed so that for the given location, egress points, grading and other elements of the development could not be reasonably altered to:
   a. Reduce the number of access points onto an arterial or collector street.
   b. Minimize adverse impacts on any existing or planned residential uses.
   c. Improve pedestrian or vehicle safety within the site and exiting from it.
2. All development including buildings, walls and fences shall be so sited to:
   a. Complement the scale and location existing development within two hundred (200) feet of the site.
   b. Provide sidewalks as specified in the subdivision standards or an off road system of pedestrian and bicycle trails of greater than five (5) feet in width.
   c. Create active and passive open spaces that are accessible to the public.
3. New development shall minimize unused or unusable public or private areas in the side or rear yards.
4. Parking and loading areas for commercial and office uses must be paved and screened from view of any adjacent residential properties.
5. Additional Standards for Conditional Uses:
   a. Outdoor recreation and amusements may be permitted if they are designed to be consistent with the desired character of the area, do not adversely affect other uses in the area and do not pose a threat to public safety.

Section 17.04.130 Business Park District (BP)

A. Characteristics and Objectives. This district is intended to protect and preserve prime industrial lands for high quality manufacturing, assembly, research and development and related supporting uses. BP zoning districts should be established in those areas that have direct access to major transportation thoroughfares. The primary objective of this district is to ensure the proper development and use of land and improvements so as to achieve a high quality, master planned, campus-like, nuisance free environment for manufacturing, assembly, research and development land uses. All development within a BP zoning district must follow a preliminary site development plan for the area. The uses, regulations and standards of this district strive to upgrade industrial development standards to protect the owner of each parcel against development and uses which could depreciate the value of individual parcels. This district allows a mixture of office, light industrial and commercial uses.

B. Use Regulations.

1. Permitted Principal Uses:

   a. Uses primarily engaged in research and development activities including research laboratories and facilities, development laboratories and facilities and compatible light manufacturing facilities such as but not limited to the following: bio-chemical; chemical; genetics; environmental and natural resources; electronics; pharmaceutical and sonic and sound imaging.

   b. Office uses aimed at providing areas for intensive employment including but not limited to professional, financial, insurance, personal services, and research and development facilities.

   c. Uses primarily engaged in manufacturing, assembly, testing and repair of components, devices, equipment and parts. Examples include: communication, transmissions, and reception equipment; computer hardware and software development; telecommunication devices and educational or training facilities.

   d. Any production, fabrication or assembly activities, provided that the proposed use can demonstrate that it will not create traffic hazards, noise, dust, noxious fumes, odors, smoke, vapor, vibration or industrial waste disposal problems, and if the characteristics and appearance do not have undesirable impacts on surrounding used.

   e. Warehousing and distribution facilities provided that such activities shall be conducted wholly within a completely enclosed building and shall not occupy more than fifty percent (50%) of the area of any building.

2. Permitted Accessory Uses:

   a. Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot.

   b. Employee recreational facilities, dining facilities, and personal and professional services as an accessory use incidental to the primary use of the parcel.

c. Associated uses to include by way of example: medical offices, pharmacies, child care facilities, public or private spaces and community facilities.

3. Conditional Uses:

a. Retail.

b. Personal and professional services.

c. Offices.

d. Child care facilities.

e. Eating establishments.

f. Lodging and meeting facilities including hotels, motels and extended stay lodging, excluding RV parks, and also including reception and banquet halls, event and conference centers.

C. Dimensional Requirements.

1. Minimum Lot Area: none.

2. Minimum Lot Dimensions: none.

3. Maximum Impervious Coverage: eighty percent (80%).

4. Maximum building height: forty (40) feet.

5. Minimum Front Yard Setback: twenty (20) feet.

6. Minimum Side Yard Setback: ten (10) feet.

7. Minimum Rear Yard Setback: twenty (20) feet

D. Development Standards.

1. All development shall be designed so that for the given location, egress points, grading and other elements of the development could not be reasonably altered to:

a. Reduce the number of access points onto an arterial or collector street.

b. Minimize adverse impacts on any existing or planned residential uses.

c. Improve pedestrian or vehicle safety within the site and exiting from it.

d. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.

e. Reduce the number of removed trees measuring four (4) inches in diameter and taller than five (5) feet above ground level.

2. All development including buildings, walls and fences shall be so sited to:

a. Complement the scale and location of existing development.

b. Provide sidewalks as specified in the subdivision standards or an off road system of pedestrian and bicycle trails of greater than five (5) feet in width.

c. Create passive and active open spaces that are accessible to the public.

3. New development shall minimize unused or unusable public or private areas in the side or rear yards.

4. Parking and loading areas for all uses must be paved and screened from view of any adjacent residential properties.

Section 17.04.140 Small Office/Warehouse District (SO)

A. Characteristics and Objectives. This district is intended for uses such as smaller businesses, office, warehouse, research and development space, contractor/trades, repair and equipment shops and workshops that may require the distribution of goods by cargo vans and smaller trucks (UPS, FEDEX) but not semi-trucks. The site is easily accessible onto a major arterial or major street but circulation is handled internally and on-site. The uses do not have any visible outdoor storage.

B. Use Regulations.

1. Permitted Principal Uses. Any of the following uses, if there is no outside storage and access onto major arterials and streets are combined whenever possible.

a. Repair, professional trade and contractor/trade services.

b. Businesses engaged in providing health, grooming and kenneling services for animals, provided all activities other than kenneling are in a completely enclosed building.

c. Businesses located in an enclosed building, which does research, and development of products or processes but do not include materials in amounts which would be considered hazardous to general health and welfare.

d. Uses primarily engaged in selling goods or merchandise to the general public for personal, household, or business use and rendering services incidental to the sale of such goods, including building materials and garden supplies.

e. Auto repair/service.

f. Commercial accommodations.

g. Places of worship.

h. Educational centers, including day-care centers and cultural complexes.

i. Self-storage facilities.

j. Lodging and meeting facilities including hotels, motels and extended stay lodging, excluding RV parks, and reception and banquet hall, event and conference centers.

k. Restaurants.

l. Offices/warehouses.

2. Permitted Accessory Uses.

a. Uses that are customarily incidental to any of the permitted principal use and are located on the same lot.

3. Conditional Uses.

a. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.

b. Theaters, meeting rooms and convention centers.

c. Outside storage if screened from view.

C. Dimensional Requirements.

1. Minimum Lot Area: none.

2. Minimum Lot Width and Depth: none.

3. Maximum Impervious Coverage: eighty percent (80%).

4. Maximum Building Height: forty (40) feet.

5. Minimum Front Yard Setback: twenty (20) feet.

6. Minimum Side Yard Setback: ten (10) feet.

7. Minimum Rear Yard Setback: twenty (20) feet.

D. Development Standards.

1. All development shall be designed so that for the given location, egress points, grading and other elements of the development could not be reasonably altered to:

a. Reduce the number of access points onto an arterial or collector street.

b. Minimize adverse impacts on any existing or planned residential uses.

c. Improve pedestrian or vehicle safety within the site and exiting from it.

2. All development including buildings, walls and fences shall be so sited to:

a. Complement the scale and location of existing development within one hundred (100) feet of the site.

b. Provide sidewalks at least five (5) feet in width.

c. Create active or passive open spaces that are accessible to the public.

3. New development shall minimize unused or unusable public or private areas in the side or rear yards.

Section 17.04.150 Planned Industrial District (PI)

A. Characteristics and Objectives. Planned Industrial zoning districts may be established in those areas that are appropriate for limited industrial uses and contractor trades. This district should be created in areas having access to major streets and a low likelihood of conflict with other uses, as well as a low potential for adverse impacts on the overall visual image of key areas, including entryways into

the community. This district is intended to accommodate a range of industrial activities that are of limited intensity, such as contractor trades, research and development institutions, warehousing and wholesaling, and small-scale production, fabrication, assembly or processing activities, to help provide a diversified employment base for the community by:

1. Allowing for planned industrial uses and the development of professional trades and contractor services that may serve and provide jobs for the City of Fountain and the surrounding area, in a manner which minimizes adverse impacts on adjacent uses and the community.
2. Limiting uses to those that will not create traffic hazards, noise, dust, fumes, odors, smoke, vapor, vibration or industrial waste disposal problems, but their operating characteristics and appearance may have impacts not desirable in other zoning districts.

B. Use Regulations.

1. Permitted Principal Uses: Any of the following uses, if outside storage and activity areas, other than employee and visitor parking or loading areas, do not exceed fifteen percent (15%) of the lot area and such uses are screened from view.
    a. Repair, professional trade and construction contractor services.
    b. Production, fabrication or assembly activities, provided that the proposed use can demonstrate that it will not create traffic hazards, noise, dust, noxious fumes, odors, smoke, vapor, vibration or industrial waste disposal problems, and if the characteristics and appearance does not have undesirable impacts on surrounding uses.
    c. Railroad spur lines where such lines are used only for delivery or loading of freight to industries or businesses in occupancy of this zoning district but not including mainline.
    d. Commercial laundries and dry cleaning.
    e. Printing or publishing facilities.
    f. Educational institutions, including vocational schools.
    g. Retail sale of products produced on-site.
    h. Distribution centers and warehouses.
    i. Auto service/repair.
    j. Self-storage facilities.
    k. Restaurants.
    l. Kennels.
2. Permitted Accessory Uses:
    a. Uses that are customarily incidental to any of the principal uses and are located on the same lot, subject to the restrictions on outside activities cited above for the permitted principal uses.
3. Conditional Uses:

a. Any of the permitted uses requiring an outdoor storage or activity area that is equal to or greater than fifteen percent (15%) of the lot area.

b. Storage or warehouse facilities for materials or equipment such as explosives or any materials that are classified as toxic or hazardous under state and federal law.

c. Pawnshops, if it is not established, operated, or maintained within one thousand (1,000) feet of any commercial zoning district.

d. Adult-oriented use, if it is not established, operated, or maintained within one thousand (1,000) feet of a residential zoning district, place of worship, park, child care facility, including day cares, and/or school meeting the requirements of the compulsory education laws of the State and is not established, operated, or maintained within three hundred (300) feet of another adult-oriented use.

e. Trucking terminals.

C. Dimensional Requirements.

1. Minimum Lot Area: twenty thousand (20,000) square feet.
2. Minimum Lot Width: one hundred (100) feet.
3. Maximum Impervious Coverage: ninety percent (90%).
4. Maximum Building Height: fifty (50) feet.
5. Minimum Front Yard Setback: twenty (20) feet.
6. Minimum Side Yard Setback: fifteen (15) feet.
7. Minimum Rear Yard Setback: twenty (20) feet.

D. Development Standards.

1. All development shall be designed so that for the given location, egress points, grading and other elements of the development satisfy the requirements set forth below to the greatest extent practicable:

   a. Reduce disruption to the existing terrain, vegetation or other natural site features.

   b. Minimize adverse impacts on residential uses in the area.

   c. Improve vehicle safety within and exiting from the site.

2. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.
3. Reduce the number of removed trees measuring four (4) inches in diameter and taller than five (5) feet above ground level.
4. Parking and loading areas shall screened from view of any adjacent residential properties.
5. Additional Standards for Conditional Uses:

a. Any of the permitted uses requiring an outside outdoor storage or activity area that is equal to or greater than fifteen percent (15%) of the lot area, may be permitted if such outside uses will not have an adverse impact on existing uses in the area, including but not limited to safety, noise, odor, light or visual impacts. All outdoor storage shall be screened in accordance with Section 17.11.030.

b. Storage or warehouse facilities for materials or equipment such as explosives or any materials that are classified as toxic or hazardous under state and federal law, may be permitted if such a use demonstrates continuing compliance with state and federal requirements and will not have an adverse impact on existing uses in the area, including but not limited to safety, noise, odor, light or visual impacts.

Section 17.04.160 Parks and Open Space District (POS)

A. Characteristics and Objectives. The Parks and Open Space zoning district shall contain those areas, which are considered to be of special significance for their natural importance in defining the City of Fountain, or for the protection of public health and safety. The POS zoning district is intended to preserve the publicly owned or privately dedicated environmentally sensitive and culturally significant areas that are prominent features of the community, undeveloped or open space lands from intensive development and protect public health and safety by:

1. Preserving distinctive natural features including drainage swales, streams, hillsides, ridges, rock outcroppings, vistas, natural plant formations, trees and scenic views.
2. Preserving distinctive features of the City's railroad and agricultural heritage, which are a cultural amenity to the community.
3. Avoiding development in areas that may be a threat to public health and safety.

B. Use Regulations.

1. Permitted Principal Uses:

a. Agricultural activities.

b. Public parks, recreational areas and open space.

2. Permitted Accessory Uses:

a. Accessory buildings and uses customarily incidental to permitted agricultural uses, including barns, sheds, corrals and similar uses.

b. Retail sale of plants, trees or other farm or agricultural products grown, produced or made on the premises.

C. Conditional Uses:

1. Non-public schools and, colleges.
2. Private golf, tennis, swimming and riding clubs, rodeo facilities, hunting and fishing lodges and guide services.

D. Dimensional Requirements.

1. Minimum Lot Area: one (1) acre.
2. Minimum Width Dimensions: one hundred (100) feet.
3. Maximum Impervious Coverage: fifteen percent (15%).
4. Maximum Building Height: thirty-five (35) feet.
5. Minimum Front Yard Setback: twenty (20) feet.
6. Minimum Side Yard Setback: twenty (20) feet.
7. Minimum Rear Yard Setback: twenty (20) feet.

E. Development Standards.

1. Development shall be located, sited and designed to:

   a. Blend in with the existing natural environment.

   b. Minimize disruption to existing terrain, vegetation, drainage patterns, natural slopes and any other distinctive natural features.

Section 17.04.170 Planned Unit Development District (PUD)

A. Purpose, Conditions and Standards.

1. Purpose. Planned Unit Developments are intended, to facilitate the achievement of the purposes and objectives of this Title, the Fountain Comprehensive Development Plan and to permit the application of new technology and greater freedom of design in land development than may be possible under the application of standard zoning districts. Developments, however, must demonstrate that flexibility from the provisions of the existing zoning will result in higher quality development and in addition, when one (1) or more following purposes can be achieved:

   a. The provision of necessary commercial, recreational and educational institution facilities in convenient proximity to housing.

   b. The provision of well located, clean, safe and pleasant industrial sites involving a minimum impact on transportation facilities.

   c. The encouragement of innovations in residential, commercial, and limited industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and lay-out of buildings that the City's existing zoning districts and associated development standards cannot accommodate and by the conservation and more efficient use of open space ancillary to said buildings.

   d. The encouragement of a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may inure to the benefit of those who need homes.

   e. A better distribution of induced traffic on the streets and highways.

f. Conservation of the value of the land.

g. Preservation of the site's natural characteristics.

2. Conditions. The use of the PUD provisions must be in accordance with the Fountain Comprehensive Development Plan and is dependent upon the submission of an acceptable plan, and satisfactory assurances that the plan will be carried out. The PUD is an entire development program concept and shall be reviewed as a whole.

   a. The PUD shall be considered by the Planning Commission and City Council from the point of view of the relationship and compatibility of the individual elements, which make up the development and, only after specifically and properly applied for, may be approved by the Planning Commission and City Council in accordance with the provisions of this Ordinance.

   b. The parcel being considered for a PUD must have been legally created pursuant to the subdivision regulations.

   c. The request for PUD approval is a voluntary act by the applicant and does not require or imply any acceptance or approval by the City. The proposed uses and densities may be deemed inappropriate after review by the City, and alternative action may be required of the applicant.

   d. Staging of Development. Each stage within a PUD shall be so planned and so related to the existing surroundings and available facilities and services that failure to proceed to the subsequent stages will not have an adverse impact on the PUD or its surroundings at any stage of the development.

3. Standards Generally. The following standards and requirements shall govern the application of a PUD:

   a. The PUD shall be consistent with the intent of the Fountain Comprehensive Development Plan and the principles and policies therein.

   b. No PUD shall be approved without a plan setting forth the provisions for development of the PUD, including but not necessarily limited to easements, covenants and restrictions relating to use, location, and bulk of buildings and other structures, intensity of use or density of development, utilities, streets, roads, pedestrian areas, and parking facilities, common (or dedicated) open spaces, and other public facilities. All PUD's shall incorporate alternative design standards, none of which should fully replicate existing zoning districts, along with a justification of how the alternative standards are equal to or superior to the existing zoning districts.

   c. The design and construction of the PUD shall include adequate, safe and convenient arrangements for pedestrian and vehicular circulation, off-street parking and loading space.

   d. While there may be no fixed setbacks and lot widths, the Planning Commission and City Council may require such setbacks, lot widths and space between buildings as necessary to provide adequate access and fire protection, to ensure proper ventilation, light, air and

snow melt between buildings, and to ensure that the PUD is compatible with other developments in the area.

e. Open space for the PUD shall be planned to produce maximum usefulness to the residents of the development for purposes of recreation and scenery and to produce a feeling of openness. All areas designated as common or public open space pursuant to the requirements of this Section shall be accessible by proper physical and legal access ways.

f. The developer shall provide within the PUD central water and sewer facilities as required by the Planning Commission, City Council, the Fountain Water Code, the State Department of Public Health and the local health authorities.

g. The development shall be designed with the necessary commercial, recreational and educational institution facilities conveniently located adjacent to residential housing.

h. Clustered housing and other buildings shall be encouraged to promote maximum open space, economy of development and variety in type, design and layout of buildings.

i. Maximum height of structures shall be established in the approved PUD plan.

4. Relationship to the Subdivision Regulations. The uniqueness of each PUD may require that specifications for the width and surfacing of streets, public ways, public utility rights of way, curbs, and other standards may be subject to modifications from the specifications established in the subdivision regulations adopted by the City of Fountain, if the reasons for such exceptions are well documented. Modifications may be incorporated only with the approval of the Planning Commission and City Council as a part of its review of the PUD. The modifications shall conform to acceptable engineering, architectural and planning principles and practices.

5. Evaluation Criteria. The following criteria shall be utilized by the Planning Commission and the City Council in evaluating any plan for planned unit development:

a. Open Space - Residential Uses. A minimum of twenty-five percent (25%) of the total PUD area shall be devoted to open space for residential uses. No more than five percent (5%) of the required percentage of usable open space shall be in the form of water surfaces, floodplains, steep slopes, or storm water detention areas. The City may consider the provision of other site amenities in lieu of the full twenty-five (25%) requirement for open space that fulfill the same function and purpose of the provision of open space. The open space requirement can be met through:

i. Development of active recreation uses such as traditional parks, play field, tennis courts, playground equipment, picnicking facilities, swimming pools, golf courses, greenways, trails and joint use school and park facilities.

ii. Environmental preservation of significant natural areas such as bluffs and other geological formations, water bodies/ water resources such as irrigation ditches, wildlife habitat areas, fragile eco-systems (wetlands) and vegetative stands.

iii. Preservation of lands which preserve significant views, provide transitions between different densities and uses (buffers) and otherwise serve to give shape and form to the proposed development and surrounding area.

b. Open Space - Nonresidential Uses. A minimum of fifteen percent (15%) of the total PUD area shall be devoted to open space for nonresidential uses. The City may consider the provision of other site amenities in lieu of a portion of the fifteen percent (15%) requirement for open space.

c. Site amenities in lieu of the provision of open space, include:

i. The floor area of indoor site amenities that provide recreational spaces, such as indoor neighborhood pools and clubhouses, may count towards the open space requirement.

ii. The floor area of outdoor spaces accessible from within buildings, but otherwise located outdoors, such as rooftop decks, courtyards and other shared spaces among residents and tenants that provides useable open space.

d. Residential Density. Density shall be limited as required by the Planning Commission and City Council upon consideration of the overall development plan and individual characteristics of the property.

e. Gross Building Floor Area. The gross building floor area of uses other than residential may be limited as required by the City Council upon consideration of the overall development plan and individual characteristics of the property.

f. Architecture. The following architectural standard and design criteria are intended to prevent monotonous streetscapes and offer consumers a wider choice of housing styles.

i. Architectural Standard. To avoid uniformity and lack of variety in design among housing units within the PUD, no home model elevation shall be repeated more than once every five (5) lots on the same side of the street (e.g., the first and fifth lots in a row may contain the same model elevation, but the second, third, and fourth lots must contain different model elevations).

ii. No home model elevation shall be repeated directly across the street from the same model elevation.

iii. Mirror images of the same home model shall not count as two (2) distinctly different models.

iv. The frontal plane of all single family detached units are required to be staggered four (4) feet from one another along the front yard, meaning there must be a four (4)-foot difference of front yard setbacks for adjacent units.

v. Design Criteria. All front elevations must incorporate at least four (4) of the following nine (9) design criteria to be considered distinctly different from another home model front elevation:

(a) The use of different materials (i.e. stucco, brick, stone, lap siding, clay tiles, etc.) in reasonably significant quantities on the front facade elevation or roof.

(b) The use of different, yet cohesive, colors between buildings, including the primary building color, secondary color and trim color.

(c) The width of the front facade elevation, which exceeds three (3) feet.

(d) The location, proportion and architectural features (columns, railing, etc.) of covered front porches and entries that vary substantially.

(e) The location, number, proportion or design of garage doors that vary substantially.

(f) The use of two (2) or three (3) car attached garages or side-loaded garages.

(g) Variations in the front plane or roofline.

(h) The use, design (gabled, arched, etc.) and location of roof or window dormers.

(i) Window shapes, sizes or location, which are substantially different.

(j) The use and style of at least three (3) different ornamental features on the exterior elevation such as bay windows, divided light windows, balconies, dormers, oriels, lintels, projecting eaves, knee braces under eaves, elaborate window sills, decorative cornices, corner blocks, entry doors, vent covers, window shutters, etc.

g. Mixed Uses. The PUD shall be designed, insofar as practicable when considering the overall size of the PUD, to provide commercial, recreational and educational amenities to its residents to alleviate the necessity of increased traffic and traffic congestion. A PUD may include any uses permitted by right or as conditional use review, any other zoning district except that any use that has been declared a nuisance by statute, ordinance or any court of competent jurisdiction shall not be permitted.

h. Minimum Area. A PUD shall not be permitted on a parcel of land less than three (3) acres in area. The minimum area requirement may be waived upon adequate justification shown by the applicant.

i. Internal Compatibility of Design Elements. It is recognized that certain individual land uses, regardless of their adherence to all the design elements provided for in this Chapter, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of the relationship and compatibility of the individual elements of the plan, and no PUD shall be approved which contains incompatible elements.

j. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, and separation from living areas, convenience and access. Private internal streets may be permitted if adequate access for police and fire protection is maintained and provisions for using and maintaining such streets are imposed upon the private users and approved by the Planning Commission and City Council. Bicycle traffic shall be provided for if appropriate for the land use.

k. The PUD shall provide parking areas in conformance with the minimum site development standards of this Title in terms of number of spaces for each use, location, dimensions, circulation, landscaping, safety, convenience, separation and screening. The PUD shall strive for optimum preservation of the natural features on the site.

l. The PUD shall provide for a variety in housing types and densities, other facilities, and common open space.

m. The PUD shall provide adequate privacy between dwelling units.

n. The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, and access to points of destination and attractiveness.

o. The maximum height of buildings may be increased above the maximum permitted for like buildings in other zoning districts in relation to the following characteristics of the proposed building:

   i. Its geographic location.

   ii. The probable effect on surrounding slopes and terrain.

   iii. Unreasonable adverse visual effects on adjacent sites or other areas in the vicinity.

   iv. Potential problems for adjacent sites caused by shadows, loss of air circulation or loss of view.

   v. Influence on the general vicinity, with regard to extreme contrast, vistas and open space.

   vi. Uses within the proposed building.

   vii. Fire protection needs.

6. Special Conditions.

   a. No PUD shall be approved unless the City Council, after Planning Commission review and recommendation, is satisfied that the landowner has provided for or established an adequate organization for the ownership and maintenance of common open space and private roads, drives and parking which, in the opinion of the City Council, is best calculated to ensure maintenance of such areas.

   b. Lot Area and Coverage, Setbacks and Clustering. In a multi-lot PUD, the averaging of lot areas shall be permitted to provide flexibility in design and to relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with usable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types which are not spaced individually on their own lots but share common side walls, combined service facilities or similar architectural innovations, whether or not providing for separate ownership of land and buildings.

   c. Maintenance Provisions. In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after approval of the planned unit development, fail to maintain the common open space in reasonable order and condition, the applicable code enforcement procedures will be implemented.

7. Consent of Landowner(s) Required. No PUD may be approved by the Planning Commission or City Council without written consent or a letter of authorization of the landowner or landowners whose properties are included within the PUD. All owners of land within the proposed PUD shall sign each application form requesting consideration or approval of any PUD

Chapter 17.05 Overlay Development and Design Standards

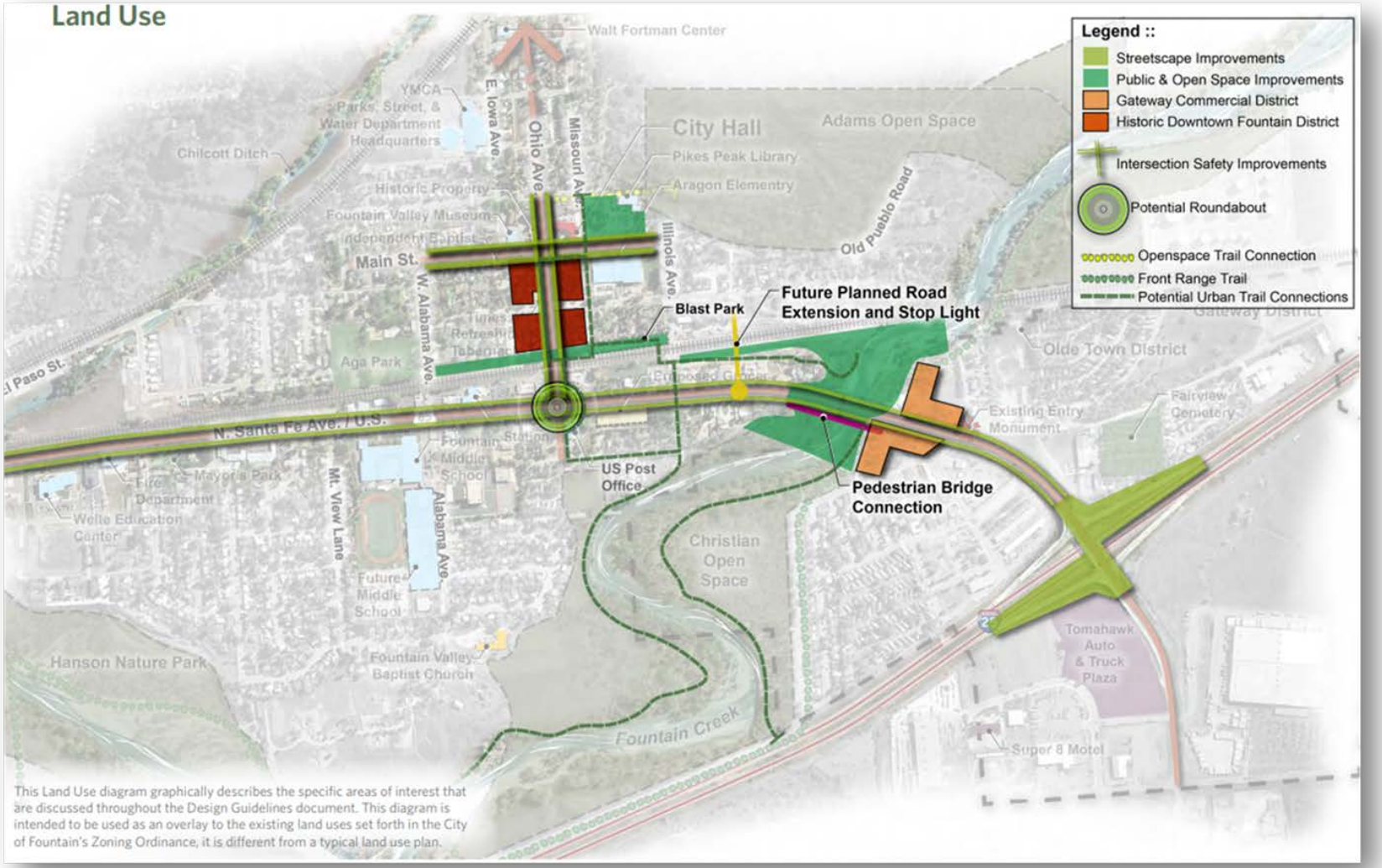
Section 17.05.010 Purpose

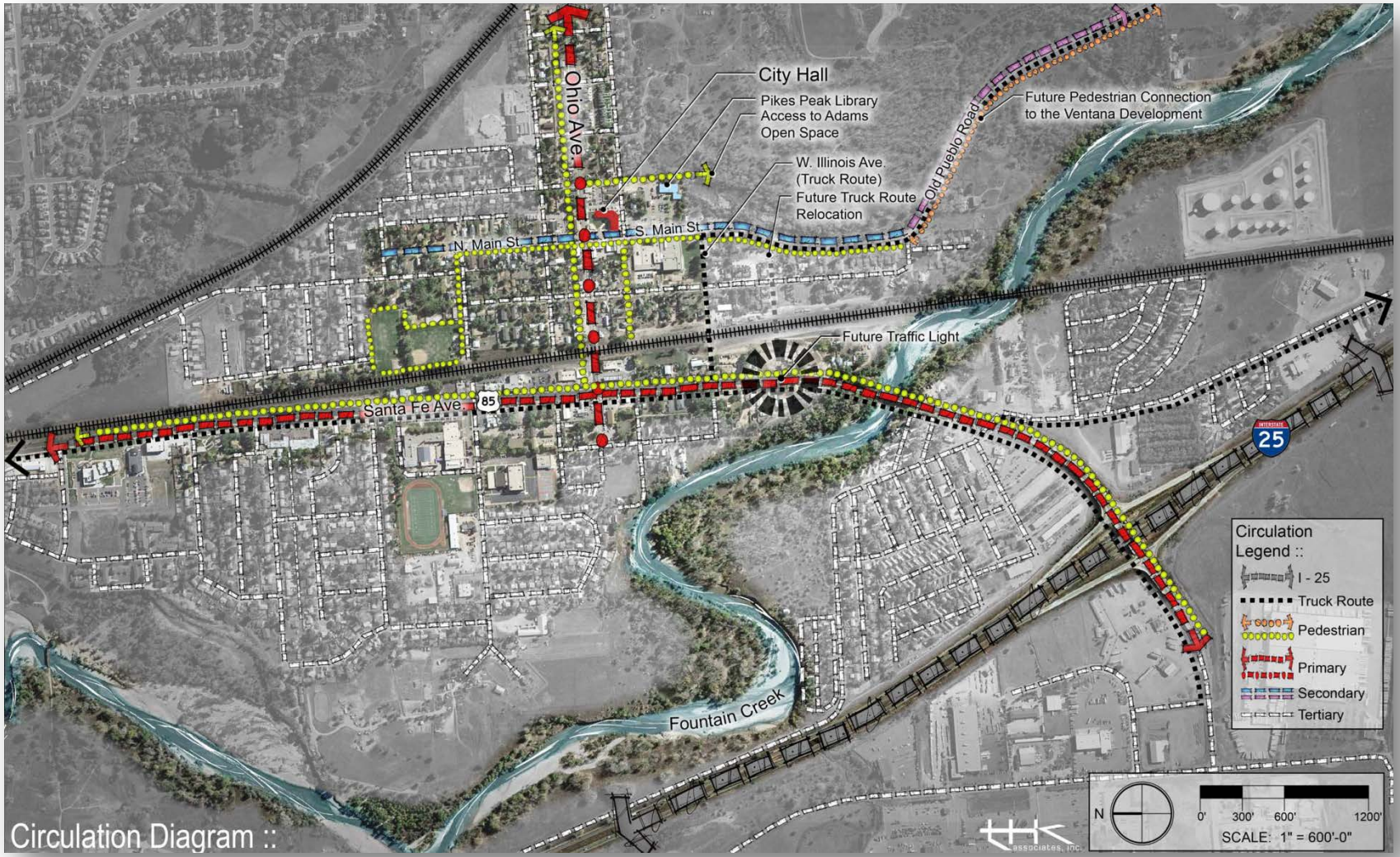
The purpose of these overlay standards is to implement the Olde Town and Interstate Gateway Aesthetic Design Guidelines & Urban Renewal Vision (2017).

Section 17.05.020 Applicability

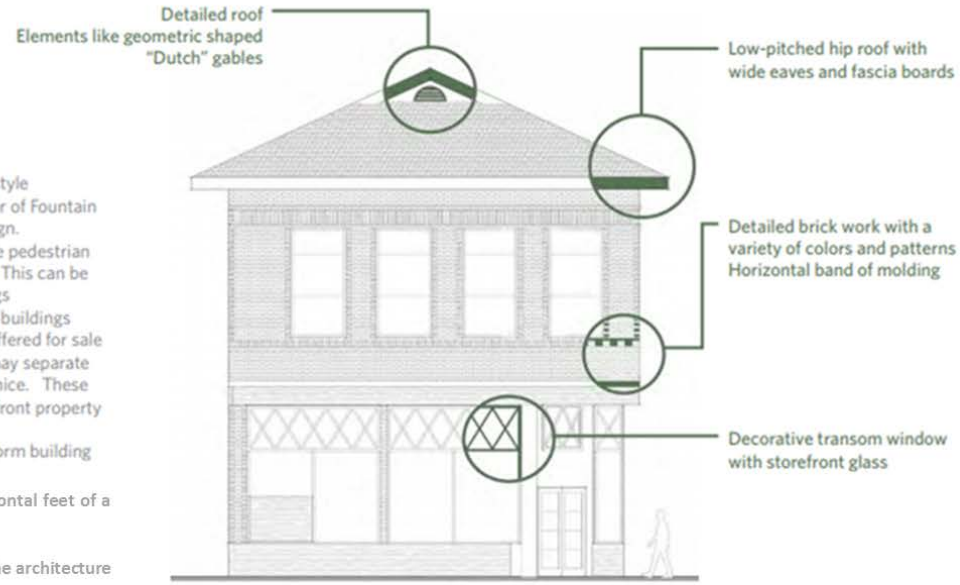
Commercial and residential uses of land and structures within the districts designated as Olde Town and Gateway may be governed by the following overlay standards at the option of the owner and/or developer.

Section 17.05.030 Overlay District Map


Land Use
Legend ::
Streetscape Improvements
Public & Open Space Improvements
Gateway Commercial District
Historic Downtown Fountain District
Intersection Safety Improvements
Potential Roundabout
Openspace Trail Connection
Front Range Trail
Potential Urban Trail Connections
Walt Fortman Center
YMCA
Parks, Street, & Water Department Headquarters
Chilcott Ditch
Historic Property
Fountain Valley Museum
Independent Baptist
Main St.
E. Iowa Ave.
Ohio Ave.
Missouri Ave.
Illinois Ave.
W. Alabama Ave.
Alabama Ave.
City Hall
Adams Open Space
Pikes Peak Library
Aragon Elementry
Old Pueblo Road
Blast Park
Future Planned Road Extension and Stop Light
Aga Park
Olde Town District
Existing Entry Monument
Fairview Cemetery
N. Santa Fe Ave. / U.S.
Fire Department
Mayor's Park
Welte Education Center
Mt. View Lane
Fountain Middle School
US Post Office
Pedestrian Bridge Connection
Christian Open Space
Future Middle School
Hanson Nature Park
Fountain Valley Baptist Church
Fountain Creek
Tomahawk Auto & Truck Plaza
Super 8 Motel
This Land Use diagram graphically describes the specific areas of interest that are discussed throughout the Design Guidelines document. This diagram is intended to be used as an overlay to the existing land uses set forth in the City of Fountain's Zoning Ordinance, it is different from a typical land use plan.


City Hall
Pikes Peak Library
Access to Adams
Open Space
W. Illinois Ave.
(Truck Route)
Future Truck Route
Relocation
Future Pedestrian Connection
to the Ventana Development
Old Pueblo Road
Ohio Ave.
N. Main St.
S. Main St.
Future Traffic Light
Santa Fe Ave.
85
25
Fountain Creek
Circulation
Legend ::
I - 25
Truck Route
Pedestrian
Primary
Secondary
Tertiary
N
0'
300'
600'
1200'
SCALE: 1" = 600'-0"
Circulation Diagram ::

Architectural Character



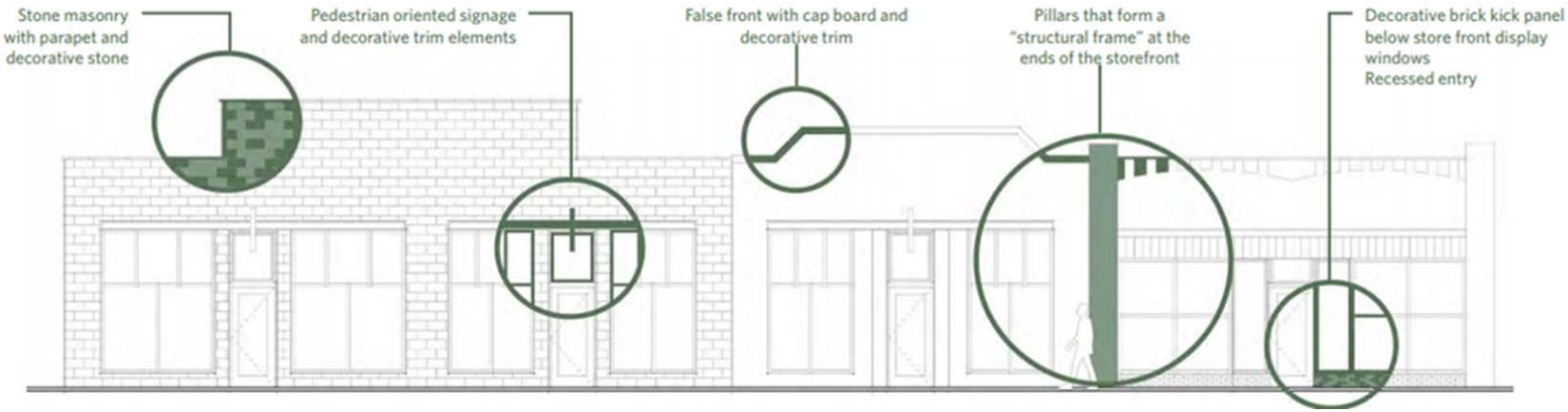
Style

The predominant and model architectural style in Fountain Colorado is consistent with Eastern Prairie style architecture. Improvements and new construction should maintain the integrity of the historic character of Fountain and the ideal of the "All American City" (awarded 2002), in a way that is compatible with creative design. Designs for new construction should reinforce the retail-oriented function of the street and enhance the pedestrian experience. The desire is to promote creative, contemporary design that respects the historic context. This can be done though a thoughtful integration of historic and new architecture and re-purposed existing buildings Buildings have features associated with traditional commercial designs, including ground level floors of buildings that are oriented to pedestrian views, with large display windows highlighting the goods and services offered for sale inside. Recessed entries are also representative of this design context. A horizontal band of molding may separate the ground floor from the upper portions of the facade and the parapet is capped with a decorative cornice. These elements establish a horizontal emphasis along the street, in combination with the build-to-line at the front property line.

A Build-to-Line is a line running parallel to the front property line without setback, which creates a uniform building facade line.

A Minimum of two of the following design elements shall be incorporated for each fifty (50) horizontal feet of a building façade or wall while incorporating architectural consistency:

1. Changes in color, texture, or materials.
2. Projections, recesses, and reveals, expressing structural bays, entrances, or other aspects of the architecture with a minimum change of plane of twelve (12) inches.
3. Grouping of windows or doors.
4. Trellis, arcades, or pergolas providing pedestrian interest.



Form and Color

The commercial core will be comprised of a rich variety of building materials. Predominate within this palette is generally high quality brick and natural stone used for prominent commercial and civic buildings. In contrast wood is the material used for the construction of early residential building. The combination of these materials traditionally found in the commercial core creates and maintains a since of history, durability and permanence.

Where contemporary materials are used they should be high quality and durable, detailed to convey human scale, and compatible with the traditional masonry (brickwork and natural stonework) palette of this area.

A range of facade materials should be used to reduce the apparent scale of a larger building. New construction must be carefully considered for compatibility and context with existing buildings that will remain. High quality durable materials that have proven durability and weathering in this climate should be used.

Simple colors with a bold flare infuse vitality. Accent colors are encouraged for adding vitality to color schemes and deep vibrant colors that reflect the nature of Colorado should be considered.

Architectural form should recognize existing scale and diversity and build upon established design traditions, while allowing for creativity and innovations in a manner which strengthens the architectural richness and identity of the city core.

It is important that future growth acknowledges, complements, and enhances the existing scale and character of this area. New development should stay within the range of building heights and be designed to reflect the variation of height, whether single story or multi-story.

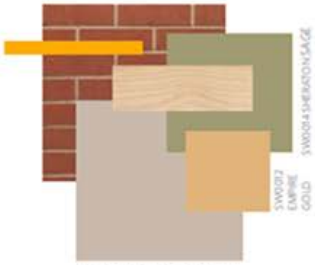
Fenestration on upper floors is traditionally predominately solid and void, or hole in the wall type of openings and typically vertical in proportion, reflecting classical architectural proportions. There are however departures from this that contribute to the rich diversity of the streetscape.

Active facades including building exteriors equipped with Smart Glass, shading systems, or other technologies that can dynamically change the optical and thermal transmission characteristics of the windows, as well as other modern building technologies should be integrated into the design.

Every lot within this district shall provide a defined edge treatment and clearly defined driveway entrances along the street frontage. Parking placed totally behind the primary structure, below grade, in a parking structure, or limit parking to one side of the building. In larger mixed-use projects, consider placing the parking within the interior of the project.

LOW IMPACT DEVELOPMENT

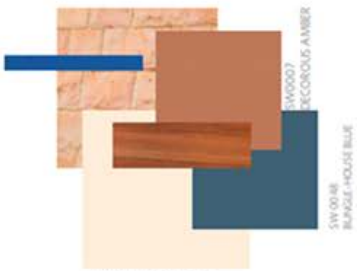
Sustainable site and building design techniques are highly encouraged, including LEED building, low impact development (LID) and green stormwater infrastructure (GSI), and Water-Wise landscape and irrigation techniques. These techniques include pervious pavement, rain gardens, green stormwater infrastructure and other similar techniques.

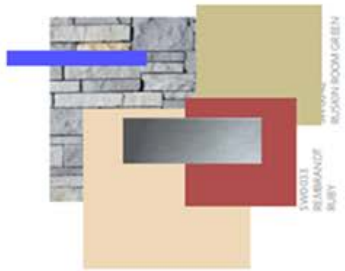


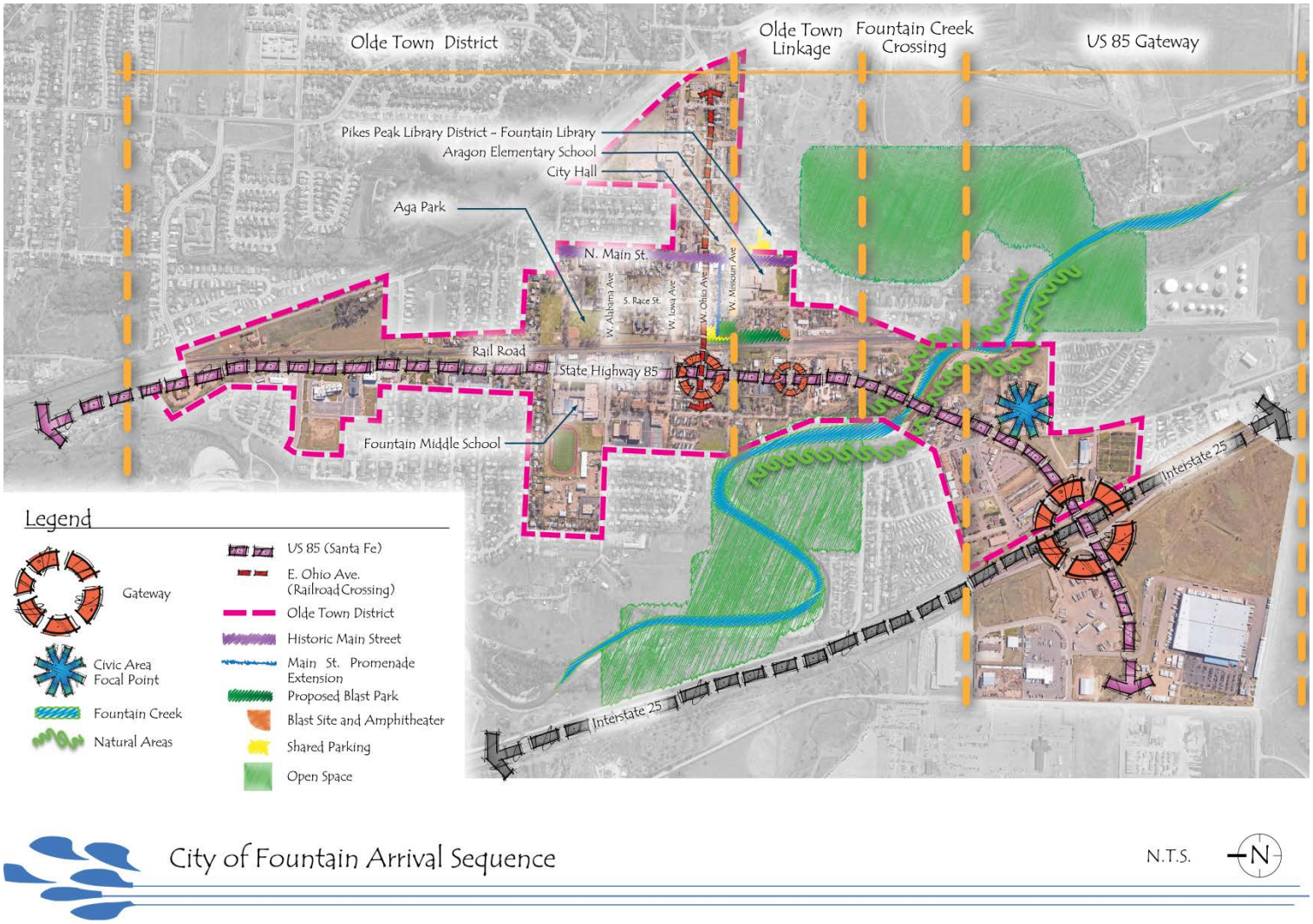
COLOR PALETTE:

There is a wide range of acceptable colors. The paint colors here are Historic Hues by Sherwin Williams. These timeless colors, that draw from and complement the brick and natural stone elements are examples of the types of sophisticated color palette, that integrated with carefully selected woods and metals can enliven the corridor. Major renovation and new constructions will be required to have color palette approved by the Design Review Committee prior to construction.

Accent colors for awnings and approved signs can be vibrant and coordinated with the chosen palette.

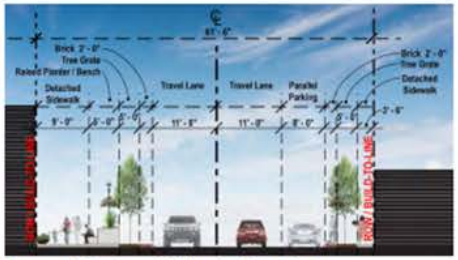






City of Fountain Arrival Sequence

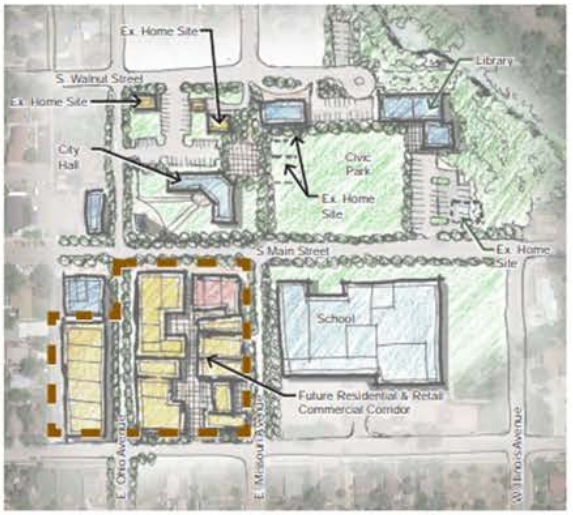
N.T.S.



Proposed Section of Ohio - Looking East

Outdoor Seating
Activated Alleyways
Public Art

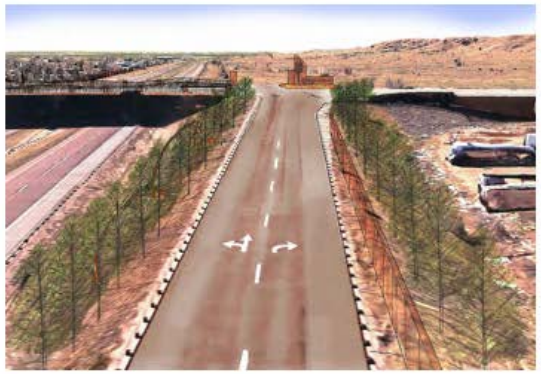
Special Design Opportunities
Street Furniture
Urban Core



New Civic Opportunities

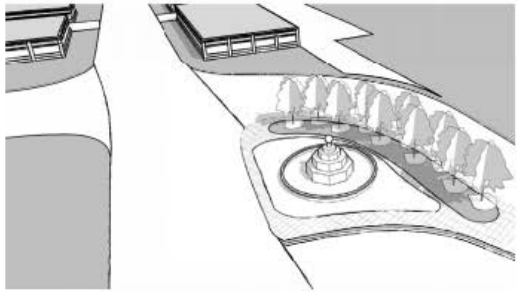
Vision, Design and Guidance

Interstate Presence



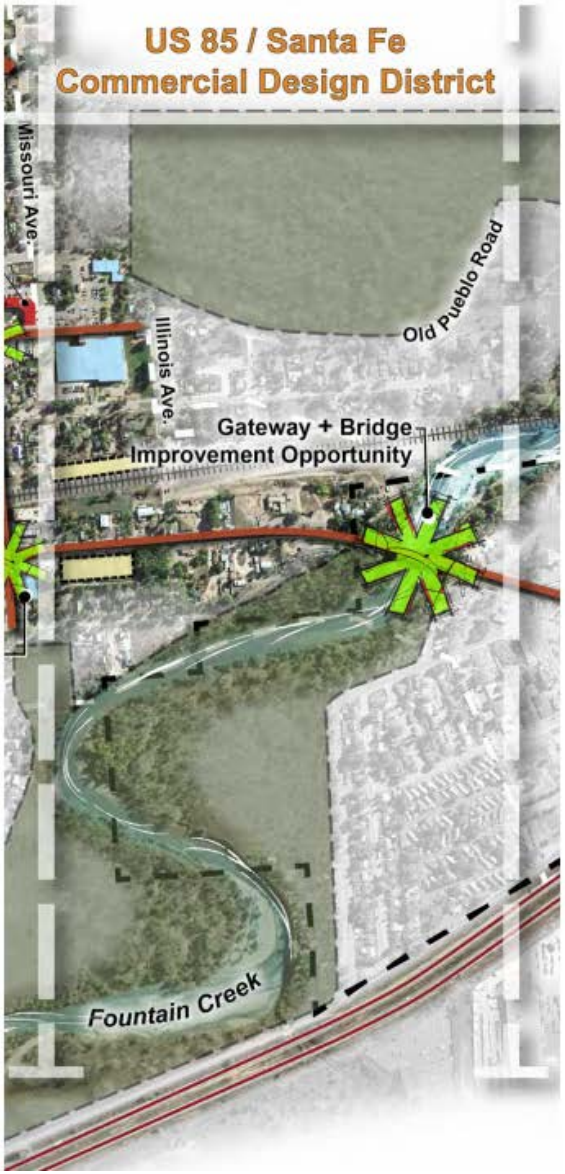
Arrival Sequence from the Interstate

Arrival Sequence over the Interstate

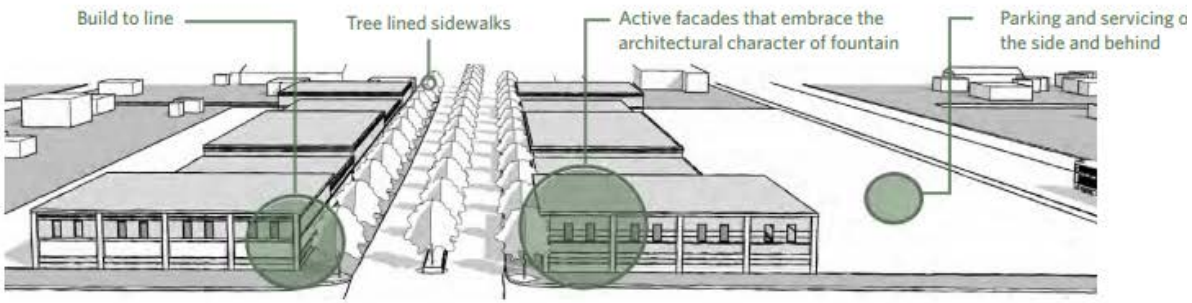


Sense of Place and Entry Monumentation

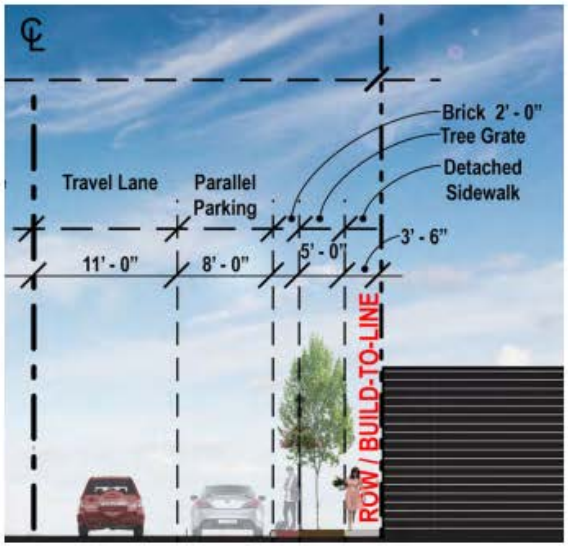
Wayfinding, Public Art and Entry Monument



Vision, Design and Guidance

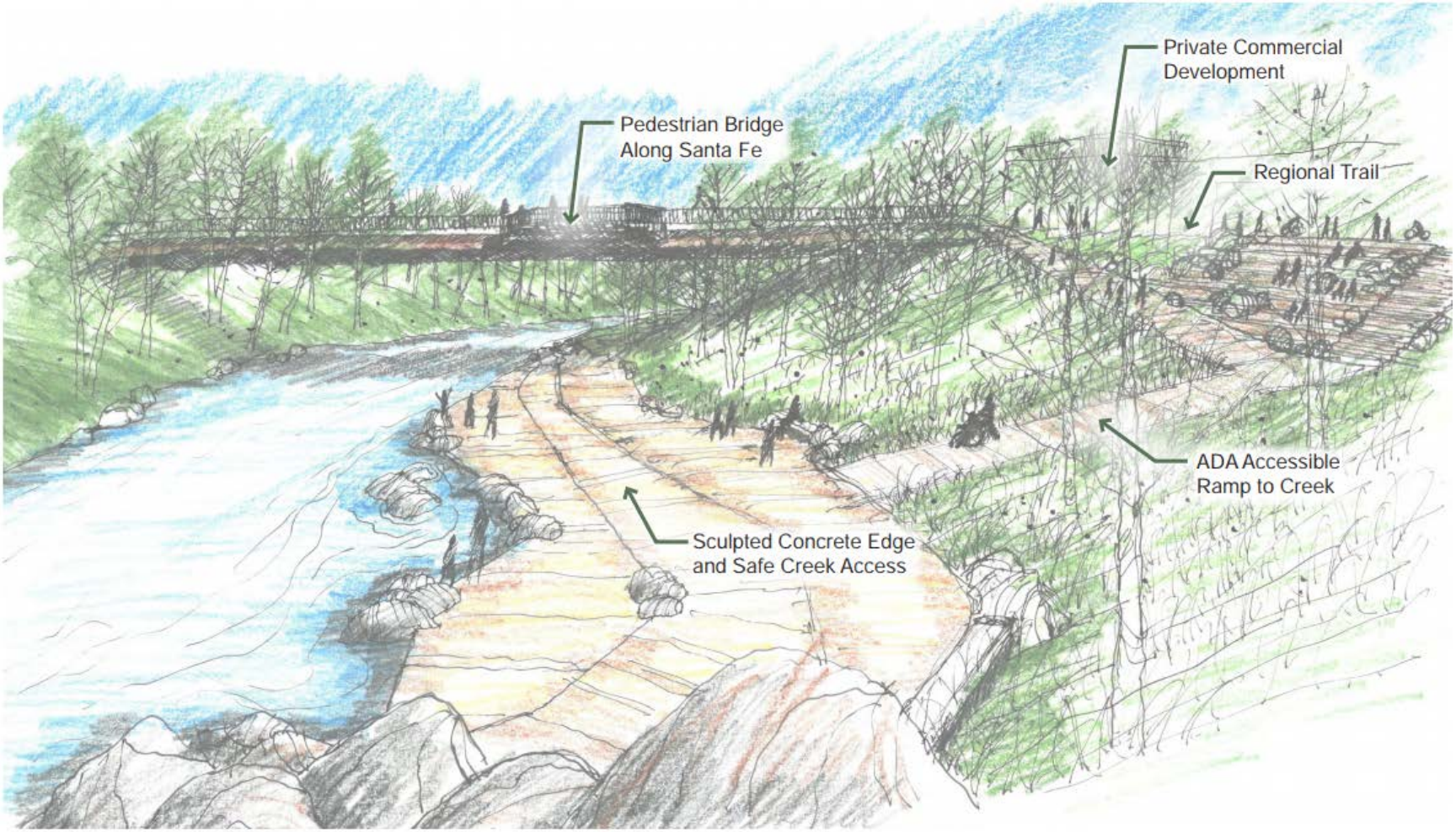


Building Setback, Orientation and Form



Street Oriented Design

Vegetated Streetscapes



Example of Fountain Creek Access

ARTICLE III. GENERAL REGULATIONS AND DEVELOPMENT STANDARDS

Chapter 17.06 Application of General Regulations and Development Standards

Section 17.06.010 Purpose and Intent

A. In addition to the requirements contained elsewhere in this Title, all uses of land and structures shall be governed by the general regulations and development standards contained in this article so as to promote the general health, safety and welfare of Fountain residents.

B. The intent of this article is to encourage the creation of safe, adequate and attractive facilities and to minimize views of unattractive uses or activities through use of sound site design principles and the establishment of minimum requirements. The standards set forth herein are recognized as enhancing the compatibility of dissimilar uses and promoting stable property values.

Section 17.06.020 Applicability

A. The general regulations and development standards of this Title shall not apply to uses in existence as of the effective date of this Title, or with respect to uses in existence on the effective date of amendments hereto, as governed by Chapter 17.27. However, these standards shall apply to all uses in all zoning districts under the following circumstances:

   1. New buildings, signs, or construction.

   2. Additions involving expansion of the gross floor area or developed site area by twenty percent (20%) or more above that in existence prior to the effective date of this Title.

   3. There is a change in the use or occupancy of the building or land, or other site improvements addressed in this Article.

B. Performance Guarantee.

   1. The Zoning Administrator may allow certain improvements to be constructed or installed within an agreed upon time allowing for seasonal changes. Such arrangements may involve a financial security, such as a cashier's check, performance bond or other method as deemed appropriate by the Zoning Administrator to assure eventual compliance with this Title.

Section 17.06.030 Vested Rights

A. Site-Specific Development Plan. For all site developments, the final approval step, irrespective of its Title, which occurs prior to building permit, shall be considered the "Site Specific Development Plan" for purposes of Article 68 of Title 24, CRS as amended. "Site Specific Development Plan" means a plan describing with reasonable certainty the type and intensity of use proposed for a specific parcel or parcels of property. The following approvals are deemed "Site Specific Development Plans": Final

Plats, Preliminary Development Plan (PDP), Final Development Plan (FDP), Major Subdivision, and Minor Subdivision.

B. Requests to Vest. In the event an applicant for Site-Specific Development Plan, as defined by Subsection A above, wishes approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, CRS as amended, the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered, accompanied by the owner's proposed formal notice of the creation of the vested property right.

C. Terms. A vested property right has a duration of three (3) years from the date of approval in accordance with CRS § 24-68-104. In the event amendments to a Site Specific Development Plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original Site Specific Development Plan, unless the City Council specifically finds to the contrary and incorporates such finding in its approval of the amendment.

D. Vested Rights by Separate Agreement.

1. The City Council may, at its sole discretion, enter into a development agreement with a landowner and provide for the vesting of property rights for a period exceeding three (3) years where warranted in light of all relevant circumstances, including, but not limited to:

   a. The project will be clearly and significantly reduced impacts on the existing infrastructure.

   b. The project will construct public facilities, water, sanitary sewer, drainage facilities and/or public streets that are oversized or extended to be of obvious strategic value to the community.

   c. The project will provide public open space and/or public parkland significantly greater than required and/or provide public recreational facilities that are of obvious strategic value to the community.

   d. A commercial project or commercial component of a mixed-use project must result in clear benefits to the City as evidenced by new jobs and tax revenue.

   e. The project will make special contributions that are clearly in the public interest.

2. Subsequent Reviews. Such agreement shall provide for subsequent reviews and approvals by the City Council to ensure compliance with the terms and conditions of the original approval.

3. Limitations on Remedy. The establishment of vested property rights shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by a local government including, but not limited to, building, fire, plumbing, electrical, mechanical and the Pikes Peak Regional Building Code.

4. Reservation. The City of Fountain reserves the right to undertake land use regulation of the Site Specific Development Plan in contravention of such plan, provided that the compensation required under CRS § 24-68-105 (1), is paid to the landowner. The adoption of this Section is not intended, and shall not be construed, to enlarge the right of the landowner or the obligation of the City beyond payment of the required compensation under the vesting statute.

5. Effect. Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, CRS. In the event of the repeal of said Article or a judicial determination that said article is invalid or unconstitutional, this Section shall be deemed to be repealed, and the provisions hereof no longer effective.

Chapter 17.07 Lot Area Regulations

Section 17.07.010 General Lot Regulations

A. Every building shall be located and maintained on a "lot" as defined in this Title.

B. No lot shall be divided to contain more dwellings than are permitted by the regulations of the zoning district in which it is located.

C. No space needed to meet the width, yard, area, open space, lot coverage, parking, or other requirements of this Title for a lot or building may be sold, transferred, or leased away from such lot or building.

D. No parcel of land which has less than the minimum width, depth and area requirements for the zoning district in which it is located may be divided from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

E. Each lot or parcel in separate ownership shall have at least twenty-five (25) lineal feet of frontage on a public street or an access easement approved by the Planning Commission and City Council unless otherwise provided for elsewhere in this Title or as part of an overall development plan.

F. Each principal building devoted wholly or in part to residential use shall be located on a lot contiguous to a public street with permanent access to the public street and sufficient to allow ingress and egress for emergency vehicles providing emergency services to the principal building. A principal building devoted wholly or in part to residential use that is located within an approved planned unit development, may be accessed by a private street if the private street meets the same standards of public streets.

G. No lot area, yard, open space, off-street parking or loading area which is required by this Title for one (1) use shall be used to meet the required lot area, yard, open space, off-street parking or loading area of another use unless authorized by the Zoning Administrator and as provided under the parking regulations in Chapter 17.09.

Section 17.07.020 Lot Area Requirements

A. Basic Minimum Lot Area. Except as provided below, no lot shall be built upon unless containing at least the basic minimum lot requirements established in Article II.

B. Non-Conforming Lots of Record. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of this Title in a recorded subdivision approved by the City Council and has less area or width than required in other Sections of this Title, such lot may be developed in accordance with these regulations, including setbacks, building height, etc. for the zone on which the lot is located and occupied according to the permitted uses and other requirements set forth in the district in which the lot is located. If a non-conforming lot ever comes

under the same ownership as a contiguous parcel it shall no longer be the same non-conforming lot and such cessation shall be processed through the lot line vacation process outlined in Title 16 Subdivision Regulations.

Section 17.07.030 Land Quality Limitations

A. No structure can be built within one hundred (100) feet of the one hundred (100) year flood plain.

B. Exceptions may be granted upon the applicant providing a study of the land area and surrounding land that may be impacted by potential development. The study shall be produced by a geo-technical engineer licensed in the State of Colorado. Such study shall contain an analysis of potentially unstable slopes, faulting, or soil conditions, etc., that may be unfavorable to development. The study shall also contain, where appropriate, recommendations for special mitigation measures and engineering precautions that shall be taken to overcome those limitations.

C. Any development that is granted an exception to this regulation and is within the one hundred (100) year floodplain or within one hundred (100) feet of the floodplain, shall be designed so as not to cause any adverse effects to the development or to any other properties from either increased flood heights, flow velocities, flow duration, rate of rise of flood waters, channel stability or sediment transport; provided, however, that any development shall not be considered as causing an adverse effect to any other properties by reason of increased flood heights if such development does not cause a rise of more than one-tenth (1/10th) of a foot in the base flood elevation of the floodplain.

Section 17.07.040 Land Dedications

Land designated as flood plain management or open space through dedication or reservation for any reason shall be indicated as such on the appropriate zoning district map. Such land and facilities shall be built and maintained either by a unit of government, by a nonprofit corporation or by private interests as part of a subdivision or development of land for use by the inhabitants or general public thereof; ownership of the land may be deeded or reserved to a property owner's association or it may be dedicated to the public; or as required by any condition for granting of a subdivision plat, zoning district or planned development amendment including designation of a park, trail or other open recreation use.

Section 17.07.050 Setback Requirements

A. Transition. When a nonresidential use which is over fifteen (15) feet in height shares a common lot line with a residential use, the required side yard setback for the nonresidential use shall be at least twenty-five (25) feet and shall be maintained with landscaped plant material to include trees, shrubs, grasses and/or xeriscape plant material as determined by the Zoning Administrator. Excepted from this requirement are nonresidential uses located prior to the location of the adjacent residential use.

B. Setback Requirements for Accessory Structures.

   1. Accessory structures and uses shall be set back a minimum of twelve (12) feet from the rear lot line, unless otherwise specified in Chapter 17.04 Zoning Districts.

2. Accessory structures shall maintain the same side and front yard setbacks as required for the principal building located on the lot.
3. No part of any accessory structure shall be located closer than six (6) feet to any principal building, unless it is attached to or forms a part of such principal building.
4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located.

C. Side Yards and Corner Lots. On corner lots, the side yard which is contiguous to a street shall not be less than ten (10) feet in width, except that a garage having perpendicular access to the street shall be set back at least eighteen (18) feet from the street property line.

D. Partially Developed Frontages. When a vacant lot is bordered on two (2) sides by previously constructed buildings and both of which are within the required front yard setback applicable to the district, the required front yard setback for the vacant lot shall be established as the average front yard setback of the two existing adjacent buildings. Where a vacant lot is bordered on only one side by a previously constructed building which does not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be established as the average front yard setback of the adjacent building and the minimum required front yard setback for the district.

E. Irregular Shaped Lots. If a lot is not rectangular or square in shape, and a building is constructed so that one side of the building is parallel to an adjacent street or right of way, the setback between the building line and that lot line which is not parallel to the building line may be calculated as the average of the nearest and farthest distances between the building corners and the lot line, except that the minimum setback at any point shall not be less than five (5) feet.

F. Features Allowed within Setbacks. The following structures and features may be located within required setbacks:

1. Trees, shrubbery or other features of natural growth.
2. Fences or walls that do not exceed the standards established in this article.
3. Driveways and sidewalks.
4. Signs, if permitted by the sign regulations of this Title.
5. Bay windows, architectural design embellishments and cantilevered floor areas of dwellings that do not project more than two (2) feet into the required setback provided they do not encroach on public easements.
6. Eaves that do not project more than eighteen (18) inches into the required setback.
7. Open outside stairways, entrance hoods, terraces, canopies and balconies that do not project more than five (5) feet into a required front or rear setback, provided they do not encroach on public easements.
8. Chimneys, flues and residential ventilating ducts that do not project more than two (2) feet into a required setback, and when placed so as not to obstruct light and ventilation, provided they do not encroach on public easements.

9. Utility lines, wires and associated structures, such as power poles.

Chapter 17.08 Access, Approaches, Driveways, and Curb Cuts

Section 17.08.010 Application

The provisions of this Chapter shall apply to all properties, public and private streets, public and private access easements and public and private rights of way.

Section 17.08.020 Permit and Standards

A. Permit - Issuance. A permit shall be required for the construction and maintenance of any access approach, driveway, or curb cut as specified in Chapter 12.04 of the Fountain Municipal Code.

B. Permit - Safety Requirements. No access approach, driveway, or curb cut shall be constructed or maintained which creates a threat to the safety of persons or vehicles near the access approach, driveway, or curb cut. No permit for the construction of an access approach, driveway, or curb cut shall be issued unless the City Engineer determines that the proposed access approach, driveway, or curb cut will not create a threat to the safety of persons or vehicles in the vicinity of the proposed access approach, driveway, or curb cut. In making this determination, the City Engineer shall consider the following factors:

1. Whether the street to which access is sought is residential or commercial in character.
2. Whether the proposed access approach, driveway, or curb cut would cross a sidewalk.
3. Whether drivers of vehicles using the proposed access approach, driveway, or curb cut would have difficulty in seeing pedestrians or other vehicles in the vicinity.
4. Whether pedestrians or the drivers of other vehicles would have difficulty in seeing vehicles using the proposed access approach, driveway, or curb cut.
5. Whether the proposed access approach, driveway, or curb cut would result in increased noise, dirt, smoke, or fumes near the proposed access approach, driveway, or curb cut.
6. Whether the property for which an access approach, driveway, or curb cut is proposed is already served by an existing access approach, driveway, or curb cut.
7. Whether parking is permitted on the street to which access is proposed.
8. The width of the street to which access is sought.
9. The posted speed limit on the street to which access is sought.
10. The distance of the proposed access approach, driveway, or curb cut from the curb line of the nearest street, which intersects the street to which access, is proposed.
11. The proximity of the proposed access approach, driveway, or curb cut to residential neighborhoods and schools.

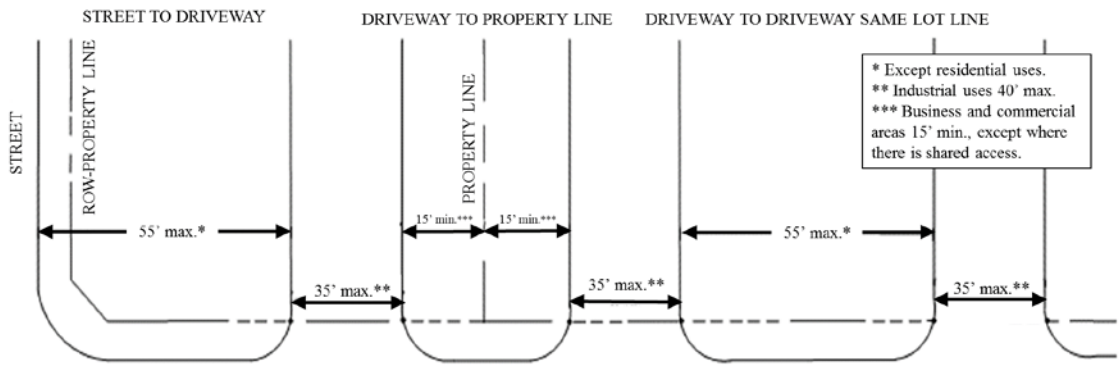
C. Vehicular Ingress and Egress. Vehicular ingress and egress to major or minor public arterials and collector streets from off-street parking areas shall be so combined, limited, located, designed and

controlled with flared and/or channeled intersections as to direct traffic to and from such public right of way conveniently, safely and in a manner which minimizes traffic friction, and promotes free traffic flow on the streets without excessive interruption. Access shall be unobstructed and direct.

D. Construction Specifications - Location.

1. No access approach or curb cut shall be closer than fifty-five (55) feet to the curb line of any street that intersects the curb line of the street to which access is gained.
2. The width of any access approach, driveway or curb cut shall not exceed thirty-five (35) feet in residential and forty (40) feet in commercial and industrial, as measured along its intersection with the property line.
3. No two access approaches, driveways or curb cuts on the same lot shall be closer together than fifty-five (55) feet measured along their intersections with the curb line of a public or private street, access easement or right of way. Access approaches, driveways or curb cuts that intersect with an access easement may be reduced by the City Engineer based on safety requirements as outlined in Section 17.08.020.B above. Parking lot drive aisles that intersect an access easement or access road internal to a development are exempt from this requirement.
4. In business and commercial areas, no access approach, or curb cut shall be closer than fifteen (15) feet to a property line of an adjacent property except where there is shared access with the adjacent property. Shared access shall be provided and documented through a recorded access and maintenance easement.
5. Cross access shall be provided between adjacent parcels where feasible. Cross access easements shall be shown on all drawings and easements, shall be recorded and shall establish ownership and maintenance provisions.

Figure 17.08.1: Driveway Spacing from Streets, Property Lines and Other Driveways



E. Surfacing. All access approaches, driveways, and curb cuts shall be surfaced immediately upon completion. Surface material shall be gravel, asphalt, or concrete when adjacent to a gravel street, and asphalt or concrete when adjacent to an asphalt or concrete street. Surfacing within the right of way shall extend from the traveled portion of the street to the right of way line.

F. Drainage. The construction of access approaches, driveways, and curb cuts shall be accomplished so as not to cause water to enter onto the traveled portion of the street and so as not to interfere with the drainage system of the street right of way.

G. Inspection. The City Engineer shall be responsible for the inspection, monitoring and final acceptance of the construction of all access approaches, driveways, and curb cuts in accordance with the access permits issued by the City Engineer.

H. Maintenance. The owner of the property serviced by an access approach, driveway, or curb cut shall be responsible for its maintenance and for any removal of snow, ice, and sand, whether deposited by nature, by the traveling public, or by the City's snow removal or street maintenance operation.

Section 17.08.030 Visibility at Intersections - Application of Sight Triangle

A. Driveways and other Intersections: This Section shall apply to all access approaches from private and public driveways onto public and private rights of way and access easements.

B. Sight Distance Controls: For purposes of this Section, a "controlled intersection" means an intersection equipped with a stop sign, yield sign, traffic control device, or other suitable traffic control warning sign. An "uncontrolled intersection" means an intersection that is not equipped with a stop sign, yield sign, traffic control device or other suitable traffic control warning sign. Unless otherwise required by the City Engineer, all controlled and uncontrolled intersections shall be designed, constructed and maintained in accordance with the sight intersection distance provisions established in Figure 17.08.2 and Table 17.08.1 as applicable.

C. Restrictions within the Sight Distance Area: No landscaping, fence, utility equipment, wall or other structure shall be constructed or maintained in the area identified as the sight distance area (a.k.a. sight triangle) between three (3) feet in height and nine (9) feet in height above the roadway. Nothing shall intrude into the sight triangle so as to obscure or block the visibility of any traffic

control device or traffic control sign located at such intersection. No on-street or off-street parking shall be allowed within the area of the sight triangle.

Figure 17.08.2: Sight Distance

Sight Distance

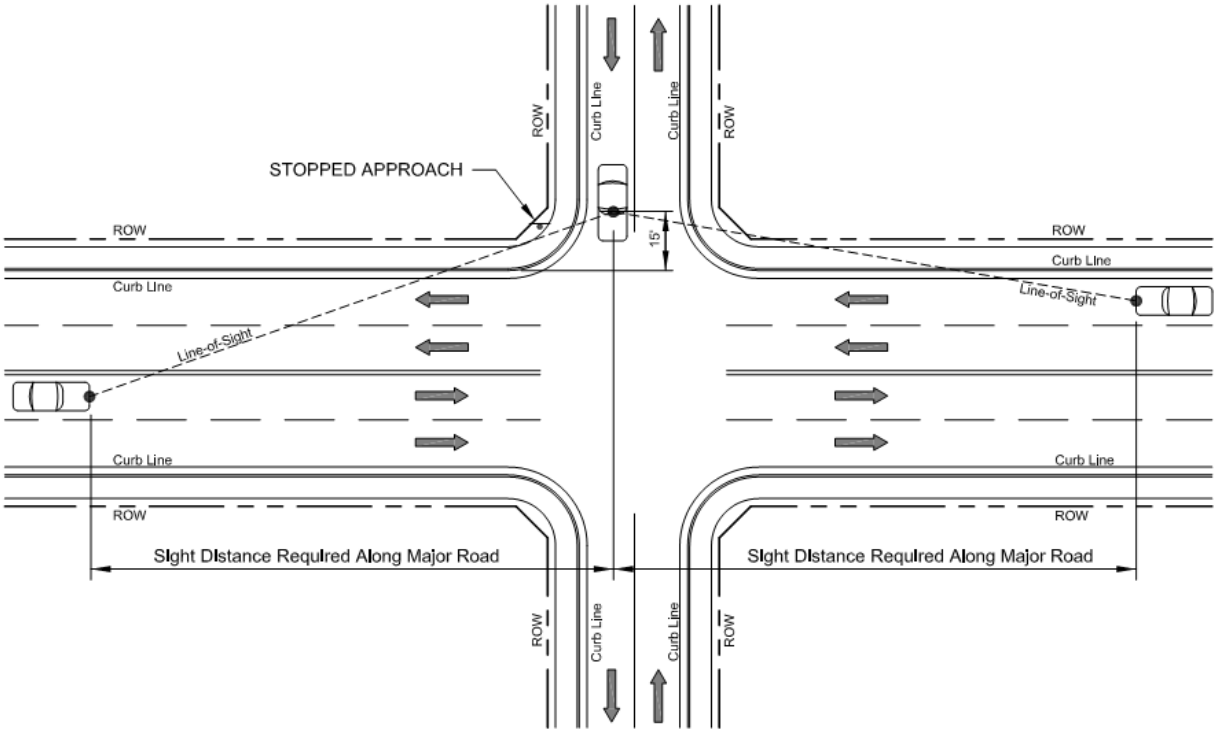


Table 17.08.1: Sight Distance

Sight Distance

Speed of Thru Roadway (MPH)	Minimum Sight Distance for Stopped Vehicle (FT)	Grade Correction Distance (FT)					
		Upgrade To:			Downgrade To:		
		3%	6%	9%	3%	6%	9%
15	80	0	-5	-10	+5	+10	+20
20	115	0	-5	-10	+5	+10	+20
25	280	0	-10	-20	+10	+20	+30
30	335	0	-10	-20	+10	+20	+30
35	390	-10	-15	-25	+10	+25	+40
40	445	-10	-20	-30	+10	+30	+50
45	500	-15	-25	-30	+15	+40	+60
50	555	-20	-35	-45	+20	+50	+70

Chapter 17.09 Off-Street Parking: Development Standards and Procedures

Section 17.09.010 Purpose and Intent

This Chapter imposes minimum requirements for the development of parking areas in conjunction with the various uses permitted in this Title. The purpose of this Chapter is to require that the owner of a land use provide and maintain sufficient quantities of parking for the land use. The purpose of these requirements is to require attractive, convenient, efficiently developed parking areas which provide sufficient quantities of parking spaces with ample area for fire lanes, maneuvering, snow storage, retention of drainage, landscaping and public safety.

Section 17.09.020 Applicability

A. The parking requirements contained herein are minimum requirements.

B. The parking requirements of this Chapter must be met upon:

1. Any construction of a new structure;
2. Any addition to or enlargement of an existing building or use;
3. Any change in use of a building;
4. Any change in use of land that increases the building area or the developed land area of the use; or
5. Any change in use of a building or land that increases the parking requirements for a building, structure or land area. Any change in the use of a building or lot which increases the off-street parking as required under this Chapter, shall be unlawful and a violation of this Title until such time as the off-street parking complies with the requirements of this Chapter and other applicable Chapters of this Title that pertain to parking.

Section 17.09.030 Maintenance - Responsibility of Owner

A. "Provide and maintain" shall mean that the off-street parking area shall remain free from pavement deterioration, cracking, erosion, chuckholes, pavement failure, and cave-in. It shall also include the maintenance of parking area signage including ADA handicap signage, fire lane signs and striping, directional signage, etc. and parking space striping. The Zoning Administrator may require the resurfacing of pavement or replacement of signs and striping if they are not maintained.

Section 17.09.040 Procedures and Administration

A. Off-street parking shall be provided as set forth in this Chapter and elsewhere in this Title in association with any use generating demand for parking. Nothing in this Chapter shall deprive the owners or operators of property, generating a need for parking, the right to maintain control over such property devoted to off-street parking, not inconsistent with this Chapter or to charge whatever fees they deem appropriate for such parking.

B. The proposed method of complying with this Chapter shall be indicated on all plans required to be submitted to the City as a part of an application, change in use review, or parking plan, and on any site development plan or plot plan submitted for a building permit.

1. Parking Analysis Required: For any new use or change of use of a building or land, a parking analysis shall be submitted to the Zoning Administrator for review. The parking analysis must prove that ample parking is available for all uses of the property. The parking analysis shall specify the previous or existing use, the proposed new use, the square footage of building or land area that is being changed, the number of off-street parking spaces required by Section 17.09.050 of this Chapter for the previous, existing and proposed use, and the number of existing parking spaces on the site. The Zoning Administrator will review the completed Parking Analysis and the accuracy of the submitted information based on the site's zoning requirements. Any increase in the required number of parking spaces shall be subject to the submittal of a site development plan or parking plan as specified below. The Zoning Administrator may waive the requirement for a Parking Analysis in situations where the parking demand for a new use is obvious.

2. Site Development Plan Required. Addition, enlargement, or change in use that increases the developed land area of the use, or if the required parking is increased by twenty percent (20%) or more, then a site development plan shall be filed with the Zoning Administrator for approval or disapproval in conjunction with the application for a building permit or change in use review. The site development plan shall show compliance with all requirements of this Chapter and other applicable parking regulations in this Title. Compliance requirements shall include the required number of off-street parking spaces, off-street loading spaces, access, surfacing, lighting, screening, landscaping, and other applicable standards. Compliance shall be shown on a site development plan as regulated in Chapter 17.23 of this Title.

3. Parking Plan Required. If new construction or an addition, enlargement, or change in use does not require the submittal of a site development plan, a separate parking plan shall be filed with the Zoning Administrator for approval or disapproval in conjunction with the application for a building permit or change in use review. A parking plan shall be required whenever existing parking areas are changed or redesigned.

C. Parking Plan Exceptions. A parking plan is not required for a change in use for a shopping center. Parking plans are also not required for a change in use where the new use requires equal or less parking than that previously approved.

D. Submittal Requirements. The parking plan shall be drawn to a scale accurately depicting the area to be allocated to off-street parking, shall analyze required off-street parking and shall clearly show existing and proposed parking spaces, drive aisles, landscaping and other appropriate information.

E. All applications shall be made by or with the approval of the owner of the entire land area to be included within the parking plan.

F. Administrative Reduction of Required Parking Spaces. The Zoning Administrator may grant up to twenty-five percent (25%) temporary or permanent reduction in the total number of required off-street parking spaces. Requests for administrative reductions to the minimum number of required

off-street parking spaces shall not be combined. Total cumulative reductions shall not exceed the amounts listed and shall meet the criteria as set forth in this subsection for granting parking reductions. Administrative reductions may not be applied to the handicap parking requirements under Section 17.09.070 of this Chapter.

1. Commercial and industrial uses in all zoning districts may be granted a reduction in the number of required off-street parking spaces based on the following criteria:
    a. The nature of the use, the size of the site or other physical constraints resulting in a situation where the parking requirements cannot be met on site without necessary hardship, practical difficulties or negative impact on the visual character of the site or neighborhood;
    b. The applicant can satisfactorily demonstrate by means of a parking study or analysis that the needs of all businesses, structures and land uses will be adequately served, and if the reduction is due to the nature of the use, the applicant shall provide assurance that the nature of the use will not change;
    c. A mix of uses is proposed and the parking needs of all the uses can be accommodated through joint use of parking spaces with varying time periods of use that will accommodate required parking needs. The joint use shall be documented in a joint parking agreement that is recorded with provisions of ownership and maintenance provided;
    d. The development is sited within one-fourth (1/4) mile of a public parking facility, transit stop, transit station or transit terminal; or
    e. The applicant provides an acceptable proposal for an alternate mode of transportation program, including assurances that the use of alternate modes of transportation (i.e. car sharing, van pooling, or other alternates) will adequately replace the need for on-site parking on an ongoing basis.
2. Required off-street parking in the Downtown Mixed Use District (MU), Central Mixed Use Business District (CMU) and Residential Mixed Use District (RMU) may be reduced one hundred percent (100%) if 1) a combination of a, b, and c below exist, or 2) if d exists:
    a. The business, land use or redevelopment is utilizing an existing structure with limited off-street parking available onsite;
    b. On-street parking is permitted and existing in front, back or to the side of the site or the development is sited within one-fourth (1/4) mile of a public parking facility.
    c. Structural coverage or mature landscaping on the site prevents any additional parking improvements.
    d. Parking is shared between uses with non-overlapping prime hours of operation

Section 17.09.050 Number of Off-Street Parking Spaces Required

A. Minimum Requirements. All uses shall provide the minimum number of off-street parking spaces listed below. Buildings with more than one (1) use shall provide parking required for each use.

Table 17.09.1 Number of Required Off-Street Parking Spaces

Use	Number of Off-Street Parking Spaces Required
Residential Dwelling Units (du)	
Single family detached and two-family attached (duplex)	2 per du
Mobile, tiny or manufactured	2 per du
Multifamily & single family attached	Studio – 1.1 per du 1 Bedroom – 1.5 per du 2 Bedroom – 1.7 per du 3 Bedroom – 2.0 per du Plus guest parking: 1 per 3 du's
Accessory dwelling unit	1 per accessory dwelling unit
Housing exclusively for elderly care	1 per unit, plus 1 space for each fulltime employee at peak times
Nursing home	1 per 2 bed capacity, plus 1 space for each fulltime employee at peak times
Group home of more than eight (8) persons	4 per facility. 2 spaces are required to be where single family parking is permitted and the remainder may be on-street curbside parking. If staff other than the resident manager or house parents is employed, 1 additional space per employee is required
Boarding or lodging house	0.75 per person to whom a room is rented
Bed and breakfast	2 per dwelling, plus 1 space per guest room
Automobile Service, Repair & Sales	
Auto repair, service station, lube center, gas station or body shop*	1 per 200 square feet of gross floor area, plus 2.5 spaces per work area or bay
Automobile sales	1 per 500 square feet of office area plus adequate space for vehicle storage and display
Car wash, self-service*	1 drying space per bay
Car wash, full-service (automated)*	5 stacked spaces per bay
Retail, Entertainment and Office	
Bank* (including branch and drive through)	1 per 300 square feet of gross floor area, plus 3 stacked spaces per window
Eating Establishments: standard sit down restaurants, fast food and drive in*, including breweries, tap and tasting rooms with food service	1 per 100 square feet of gross floor area, plus 3 stacked spaces per window Outdoor seating may be provided without a requirement for additional parking if the outdoor seating area is not larger than 1/3 of the indoor seating area in size
Drinking establishments, including breweries, tap and tasting rooms with no food service	1 per 100 square feet of gross floor area (including any outdoor seating or entertainment area)
Convenience store*	1 per 300 square feet of gross floor area

Use	Number of Off-Street Parking Spaces Required
Funeral home, mortuary and crematorium	1 per 300 square feet of assembly area
Retail sales and general commercial*	1 per 300 square feet of gross floor area
Retail sales – Large items (furniture, appliances, flooring)	1 per 600 square feet of gross floor area
Health & athletic club or studio, recreational amusement, and indoor sports entertainment facility	1 per 125 square feet of gross floor area
Personal fitness – crossfit gyms, martial arts school, dance, yoga or pilates studios	1 per 250 square feet of gross floor area
Theater	1 per 40 square feet in the main assembly area
Outdoor recreation & sports entertainment, including stadium, arena, auditorium	1 per 5 fixed seats
Hotel & motel	1.5 per 2,000 square feet of gross floor area
Medical office, clinic	1 per 200 square feet of gross floor area
Office (including finance, real estate, business professional, and telecommunication facility with employees)	1 per 300 square feet of gross floor area, plus 1 space for each company owned vehicle
Shopping Center: (square feet of gross floor area) Less than 150,000 150,000 to 399,999 400,000 and greater	 1 per 250 square feet of gross floor area 1 per 275 square feet of gross floor area 1 per 300 square feet of gross floor area
Commercial stable and other commercial animal boarding	1 per 5 animal stalls/kennels
Public, Quasi-Public and Institutional	
College: public or private	1 per 2 students
Childcare facility, including day care or nursery	1 per each employee at max. shift, plus 1 space per six children, plus one per facility owned vehicle Home daycares – no employee parking required unless otherwise required in Section 17.09.050.
Hospital	1 per 2 bed capacity
Library, museum or gallery	1 per 300 square feet of gross floor area
Place of worship	1 per 3 seats in main assembly area, plus 1 per 100 square feet of assembly area without seating

Use	Number of Off-Street Parking Spaces Required
Public assembly and civic association hall (includes all facilities used for receptions, banquets, events, conferences and conventions)	1 per 100 square feet gross floor area or 1 per 4 persons at maximum occupancy, whichever is greater in area
School (1) Through junior high (2) High school and college	(1) 2 per classroom (2) 10 per classroom
Manufacturing & Industrial Uses	
Contractor yard, contractor business service, construction business	1 per 500 square feet of gross floor area
Junk or salvage yard, recycling or processing center	1 per employee; minimum of 4 spaces for customers
Laboratory and research and development	The greater of 1 per 300 square feet of gross floor area or 1 per employee on maximum shift
Manufacturing, processing or assembly, including manufacturing of malt beverages.	1 per 500 square feet of gross floor area
Self-service storage facility	1 per 20 storage units
Warehouse with storage, no freight movement	1 per 1,000 square feet for the first 10,000 square feet of gross floor area then 1 per 10,000 square feet of gross floor area for the remaining area
Warehouse with freight movement	1 per 1,000 square feet of gross floor area
Wholesale sales	1 per 500 square feet of sales area

B. The Zoning Administrator shall determine parking requirements for uses not specifically listed based on an analysis of parking requirements for similar uses, comparable requirements of other municipalities, or on anticipated parking demands.

C. Those uses identified above with an asterisk (*) may also be subject to vehicle stacking requirements as specified in Section 17.09.090 of this Chapter.

D. Employee Parking. Additional parking spaces needed for employee parking and designated for employee parking only may be required upon review of the site and the employment projections for the business. This shall apply to all home-based businesses, temporary uses and zoning districts.

Section 17.09.060 Calculation of Parking Space Requirements

A. Number of Spaces. Separate off-street parking spaces shall be provided for each use.

1. Where parking facilities are combined and shared by two (2) or more uses the off-street parking space required for two (2) or more uses having the same or different standards for determining the amount of required off-street parking spaces shall be the sum of the standards of all the various uses.

2. When any parking calculation results in a required fractional space, such fraction shall be rounded off to the closest whole number (i.e. 2.4 = 2, 2.5 = 3).

B. Measurement of Floor Area. Floor areas used in calculating the required number of parking spaces shall be gross floor areas of the building calculated from the exterior outside walls without regard to a specific inside use. In mixed use facilities:

1. Calculations shall be based on gross square footage of each identifiable use within the building and the total square footage of each identifiable use shall be the same as the gross floor area calculated from outside wall to outside wall.

2. Uses, which serve more than one (1) of the uses such as bathrooms, mechanical rooms, stairwells, circulation, airshafts, storage areas, and elevators, shall be pro-rated based on the area of each identifiable use.

C. Compact Parking. Up to thirty percent (30%) of all required off-street parking spaces may be designated as "compact car spaces". The dimensions for compact spaces are shown in Figure 17.346-2. Such spaces shall be appropriately marked with the words “Compact Car.” Off-street parking spaces provided in excess of the required number of spaces for a building or use may be in the form of compact parking spaces.

D. Determination of Requirements for Uses Not Listed. Requirements for types of buildings and uses not specifically listed in this Chapter shall be determined by the Zoning Administrator after study and recommendation which should include all relevant factors, including but not limited to:

1. Vehicle occupancy studies.

2. Comparable requirements from other relevant municipalities.

3. Requirements of comparable uses listed in this Chapter.

4. Suitable and adequate means will exist for provision of public, community, group or common facilities.

5. Provision of adequate loading facilities and for a system for distribution and pickup of goods.

6. Use is in the interest of the area to be affected and in the interests of the City at large.

7. Use will not be detrimental to adjacent properties or improvements in the vicinity of the area.

8. That the proposed use will not confer any special privilege or benefit on the properties or improvements in the area, which privilege or benefit is not conferred upon similarly situated properties elsewhere in the City.

Section 17.09.070 Handicap Parking Requirements

A. The provisions of this Section shall be provided in accordance with ADA requirements established in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) under the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). Private properties under development shall follow the same ADA requirements for public rights of way as required by this Section.

B. Required Spaces. Accessible handicap parking spaces must be provided at the following minimum rate for nonresidential projects. A minimum of one in every eight handicap parking spaces shall be van accessible with a minimum of one van accessible space required for every development. The spaces required by this Section shall be provided in addition to the number of parking spaces required elsewhere in this Chapter.

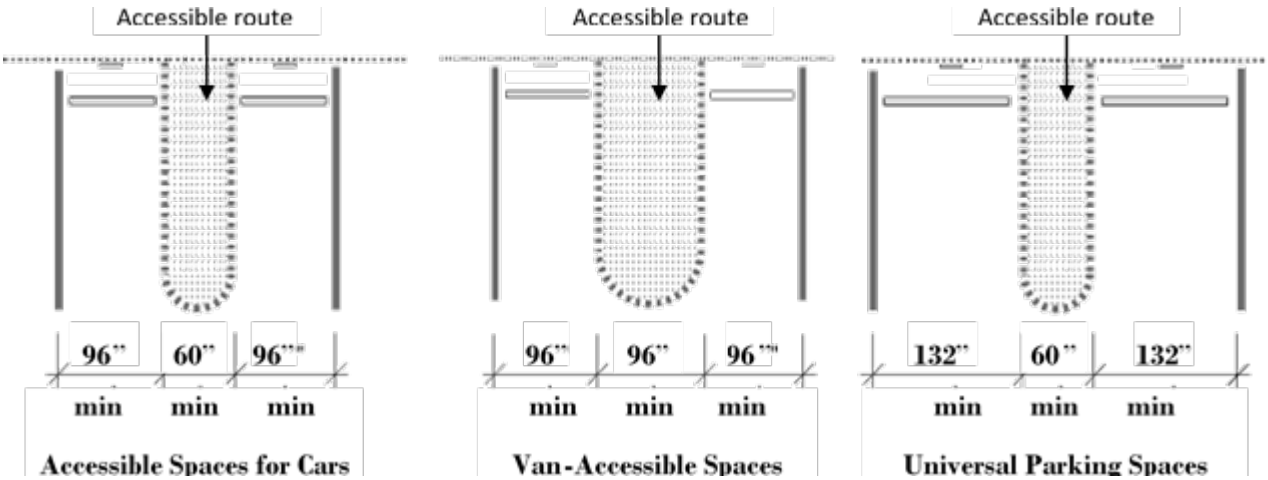
Table 17.09.2: Required Number of Handicap Accessible Parking Spaces

Total Required Parking Spaces	Minimum Required Accessible Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total spaces
Over 1,000	20 spaces plus 1 space for every 100 spaces, or fraction thereof, over 1,000

C. Location. The required spaces shall be located to provide the least travel distance to the facilities served. Spaces shall be located, where feasible, to allow those parking in the spaces to access the associated building without crossing vehicle traffic areas or passing behind parking spaces other than the handicap parking space being utilized. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. The distance between the most remote principal entrance of a building and any one space shall not exceed two hundred (200) feet.

D. Size. Standard accessible handicap spaces shall be no less than eight (8) feet wide with an adjacent access aisle of no less than five (5) feet in width. Van accessible spaces shall be no less than eight (8) feet wide with an adjacent access aisle of no less than eight (8) feet in width. In the alternative, the parking may be designed to conform to the ADAAG "universal" parking space design of an eleven (11) feet wide parking space with an adjacent access aisle of no less than five (5) feet in width. Two (2) adjacent spaces may share a common access aisle. Such aisles shall provide an accessible route of travel to the building or facility entrance. Boundaries of the required parking spaces and aisles shall be marked to identify the use of such space.

Figure 17.09.1: Handicap Accessible Parking Space Dimensions



E. Pedestrian and Curb Ramps: Pedestrian and curb ramps shall be required wherever an accessible route crosses a curb.

1. All pedestrian curb ramp designs shall meet City adopted design standards and ADAAG guidelines.

2. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides. The maximum slope of a ramp shall be 1:16 and with a maximum slope of the flare at 1:10 unless otherwise authorized by the City Engineer due to existing site limitations. Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp.

3. Detectable warning panels required. Curb ramps shall have a detectable warning panel that shall extend the full width of the curb ramp. Detectable warnings shall consist of panels with raised truncated domes with a diameter of nominal 0.9 inches, a height of nominal 0.2 inches, and a center-to-center spacing of nominal 2.35 inches and shall contract visually with adjoining surfaces, either light-on-dark, or dark-on-light. The material used to provide contrast shall be an integral part of the walking surface. Detectable warnings used on interior surfaces shall differ from adjoining walking surfaces in resiliency or sound-on-can contact.

4. Any development or redevelopment of a site shall require the upgrade of any non-conforming pedestrian curb ramps for areas on the property or in the right of way that are within a reasonable area of impact to the development or redevelopment.

F. Signage and Pavement Markings. Every parking space required by this Section shall be identified by a sign and pavement marking showing the symbol of accessibility. Signs and pavement markings shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) Standards as adopted by the City.

G. Surface. Parking spaces and access aisles shall be firm, stable, smooth and slip resistant.

Section 17.09.080 Restrictions

A. Residential Weight Restrictions. Off-street parking spaces for residential uses shall be used by vehicles up to but not exceeding four (4) tons manufacturer's capacity rating.

B. Use of Required Parking Spaces in Commercial Zone Districts. Off-street parking spaces shall be used for the parking of vehicles by employees, customers and other associated end users of a land use. Required parking spaces shall not be used for:

1. The parking or storage of automobile trailers, boats, detached campers or any other object;
2. The sale, repair dismantling or servicing of any vehicle, equipment, material or supplies;
3. The temporary or permanent display of goods;
4. Temporary or permanent signage;
5. Dumpsters; or
6. Any similar object or use that will render the parking space unusable according to the intent and purpose of this Chapter. Where a land use requires parking spaces for the storage or display of any vehicle or other good for rental or sale, additional parking spaces over the minimum required shall be provided.

C. Any parking spaces that are in excess of the required parking or any parking areas proposed for use as display or storage shall be delineated on the required plans and shall meet the minimum design standards contained within this Chapter.

Section 17.09.090 Stacking Space for Drive-through, Parking Attendant or Paid Parking Collection Devices

A. Submittal of Plans. The location, size and dimensions of all stacking spaces for drive-through, parking attendant or similar facilities shall be shown on any required site development plan or parking plan. The plan shall follow the stacking space schedule and shall demonstrate that such facilities will not result in the stacking of vehicles on public or private rights of way or easements, except as otherwise regulated in Subsection B. below, and that an adequate area is reserved for the safe transfer of the motor vehicle between any parking attendant or valet and the driver of the vehicle. In no event shall a gated entry or exit, drive-through, parking attendant, paid parking collection device, or area associated with such uses be located in a public street or right of way, or interfere with vehicular or pedestrian traffic on a public or private street, sidewalk, trail, easement or other right of way or easement.

B. Stacking in public alleys in the Downtown Mixed Use District (MU), Residential Mixed Use District (RMU) and Central Mixed Use Business District (CMU) may be allowed provided:

1. The primary access for any lot that abuts the alley in the same block where the stacking shall occur is not provided by the alley.
2. The alley surface is paved.

3. The traffic generated by the vehicles will not detrimentally affect property owners abutting the alley.

C. The minimum width of a drive-through lane shall be eight (8) feet, shall not intersect with pedestrian access to a public entrance of a building and shall be striped, marked or otherwise distinctly delineated.

D. The Zoning Administrator may require stacking space for uses not listed if determined that the use may create traffic or pedestrian safety hazards.

Table 17.09.3: Stacking Space Schedule

Use	Minimum Stacking Space	Measured From
Bank teller, automated teller lane or bill payment	3	Teller or window
Restaurant, drive-through	4	Order box
Car wash stall, quick lube/oil change	3	Stall or bay
Non-manned gated entry into a residential or commercial subdivision or development	2	Code box, key reader or similar device

Section 17.09.100 Parking Area Design Standards

A. Dimensional Standards. Recreational vehicle parking spaces shall measure a minimum of ten (10) feet by twenty-four (24) feet.

B. Surface standards. All parking areas shall be 1) properly graded for drainage and surfaced with portland cement concrete, or other surfaces as approved by the City Engineer, and 2) in conformance with specifications of the City. Areas shall be maintained in good condition, free of weeds, dust, potholes, and debris.

C. Driveways. No more than two (2) driveways will be permitted per parcel. Exceptions may be made by the City Engineer for large parcels that can demonstrate the driveway spacing meets the review criteria established in Section 17.08.020 of this Title. In no case shall a parcel have more than four (4) driveways.

D. Maneuvering in Right of Way. Every parking space shall be so designed that a vehicle does not back across or maneuver within any public or private right of way. This requirement shall not apply to single family residential, two-family residential, townhome developments, an alley, unimproved street or approved on-street parking areas. The requirement may be waived by the Zoning Administrator for uses within the Downtown Mixed Use District, Central Mixed Use District and Residential Mixed Use District.

E. Sidewalks in parking areas shall be no less than five (5) feet in width.

F. Vehicle overhang and sidewalk width. Vehicles shall not overhang any property line, walkway, landscaped area, or bicycle path. No parking shall be allowed to overhang or otherwise encroach onto an adjacent parcel unless a parking easement has been recorded for the overhang and/or

encroachment. A minimum seven (7) foot wide sidewalk shall be required where vehicles overhang a sidewalk. A minimum two (2) feet of additional surface improvements will be required where vehicles overhang a trail, path or similar pedestrian or bicycle corridor.

G. Except for parking spaces for single family detached and two-family (duplex) dwellings, all parking spaces shall be striped on the pavement and the striping shall be maintained so it is visible. Other directional markings or signs shall be installed as permitted or required by the City to ensure the approved utilization of space, direction of traffic flow, and general safety. Fire lanes shall be painted on the property in accordance with City Fire Department requirements.

H. Lighting. All multifamily residential uses, including townhomes, and nonresidential uses shall provide adequate lighting in off-street parking areas. Lighting shall conform to the following standards:

1. Light sources shall be concealed and fully shielded and shall feature sharp cut-off capability so as to minimize up-light, spill-light, glare and unnecessary diffusion on adjacent property.

2. Neither the direct or reflected light from any light source shall create a traffic hazard to operators of motor vehicles on public or private roads, and no flashing or colored lights may be used in such a way as to be confused or construed as traffic control devices. Parking areas and circulation drives shall be illuminated as unobtrusively as possible to meet the functional needs of safe circulation and of protecting people and property.

3. The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site. Poles shall be anodized or coated to minimize glare from the light source.

4. Light sources must minimize contrast with the light produced by surrounding uses, and must produce an unobtrusive degree of brightness in both illumination levels and color rendition. Incandescent and high-pressure sodium light sources all can provide adequate illumination with low contrast and brightness and are permitted light sources.

5. Maximum on-site lighting levels shall not exceed ten (10) foot-candles, except for loading and unloading platforms and fuel canopies where the maximum lighting level shall be twenty (20) foot-candles.

6. Light levels measured twenty (20) feet beyond the property line of the development site (adjacent to residential uses and public or private rights of way) shall not exceed one-tenth (0.1) foot-candle as a direct result of the on-site lighting.

7. The height of light standards in parking lots shall not exceed twenty-five (25) feet.

I. Shopping Cart Management. All retail uses larger than thirty thousand (30,000) square feet in area shall provide a cart control system to ensure that required parking spaces and movement corridors are not encroached on by haphazardly placed shopping carts. The Zoning Administrator may require cart corrals for all parking lots serving retail or commercial uses.

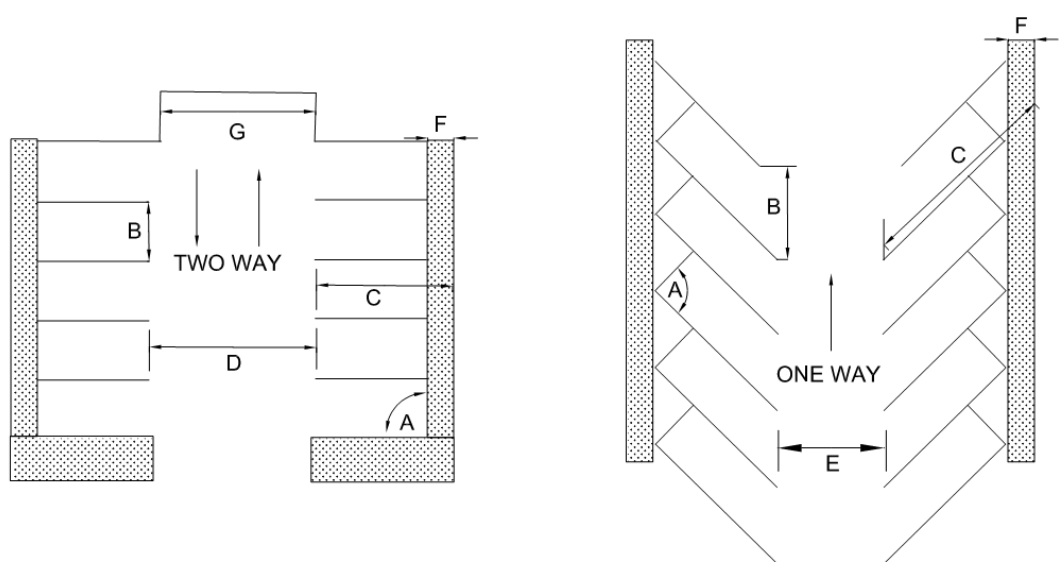
J. Bicycle Facilities and Parking. Commercial, industrial, and multifamily residential uses shall provide bicycle facilities to meet the following standards:

1. Required number. The minimum number of bicycle parking spaces shall equal five percent (5%) of the number of required parking spaces. At least one (1) bicycle parking space shall be provided.
2. Location. For convenience and security, bicycle parking facilities shall:
   a. Be located near building entrances,
   b. Be visible from the land uses they serve; and
   c. Not be located in remote automobile parking areas.
   d. Bicycle parking facilities shall not be located to impede pedestrian or automobile traffic flow nor cause damage to plant material from bicycle traffic.
3. Design. Bicycle parking facilities shall be provided with bicycle racks and be designed to allow the bicycle to be securely locked to the bicycle rack. The bicycle rack shall be of permanent construction such as heavy gauge tubular steel with angle bars permanently attached to the pavement. Bicycle parking facilities shall be at least two (2) feet in width and five and one-half (5-1/2) feet in length, with additional back-out or maneuvering space of at least five (5) feet.

K. Temporary Parking. Temporary parking may be permitted by the Zoning Administrator for up to one (1) year provided that an all-weather surface as approved by the City Engineer is placed as the surfacing material for the parking area.

L. Parking and loading dimensions are shown in Figure 17.09.2.

Figure 17.09.2: Parking Facility Design



REGULAR PARKING SPACE DIMENSIONS

A Parking Angle	B Width of Space	C Length of Space	D Width 2-Way Aisle	E Width 1-Way Aisle	F Over-hang*	G Dead-end Turn-around

A Parking Angle	B Width of Space	C Length of Space	D Width 2-Way Aisle	E Width 1-Way Aisle	F Over-hang*	G Dead-end Turn-around
0	9	22	20	12	0	Depth: 5 ft Width: Same width as drive aisle
30	9	17	N/A	12	1.5	
45	9	19	20	12	1.5	
60	9	20	20	16	2	
75	9	19.5	22	18	2	
90	9	18	24	24	2	

* Only allowed if there is no vehicle overhang onto a sidewalk, trail, path or similar pedestrian or bicycle corridor. If the overhang projects over or onto any pedestrian or bicycle corridor, the overhang width shall adhere to the standards in Section 17.09.100. Where wheelstops are used, they shall be located within the parking stall to accommodate the required overhang. Wheelstops shall not be used in conjunction with curbs.

COMPACT PARKING SPACE DIMENSIONS

A Parking Angle	B Width of Space	C Length of Space	F Overhang
0	8	20	0
30	8	15	1.5
45	8	17	1.5
60	8	18	2
75	8	17.5	2
90	8	16	2

1. Turn-Around Area. A turnaround area of five (5) feet in depth and the same width of the drive aisle shall be provided for all dead-end parking drive aisles.
2. Tandem Parking Spaces Prohibited. All required parking spaces shall be individually accessible. Tandem parking for the purpose of meeting off-street parking requirements is prohibited with the exception of single family residential, home daycare and home-based businesses.

Chapter 17.10 Off-Street Loading

Section 17.10.010 Requirements

Whenever the normal operation of any development or use requires that goods, merchandise or equipment be routinely delivered to or shipped from that development or use, a sufficient off-street loading and unloading area must be provided in accordance with this Chapter to accommodate the delivery or shipment operation in a safe and convenient manner.

Section 17.10.020 Space Requirements and Standards

A. Standards for Loading Berths.

1. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use the area, given the nature of the development or use. Loading spaces may be shared in shopping centers.
2. The Zoning Administrator may require more or less spaces if necessary to satisfy this Chapter. When seeking a reduction, the applicant shall submit a waiver request to the Zoning Administrator with a justification and statement of hardship. The Zoning Administrator may consider hours of operation, delivery schedules, size of delivery vehicles and other similar criteria when reviewing the request.
3. Loading and unloading areas shall be located and designed so vehicles intended to use them can maneuver safely and conveniently to and from the public street right of way and complete their operations without interfering with any public right of way or parking space.
4. Loading and unloading areas shall be located in the least visible area of the site, either behind or to the side of the structure. Loading spaces shall not be located in the front of the site or along public right of way unless the physical constraints of a site preclude the loading space from being placed in other areas of the parcel. Loading spaces should be screened if visible from public right of way or adjacent residential properties.
5. Loading Space Dimensions. Required dimensions are as provided in Table 17.10.1 below. Each loading berth shall provide not less that fourteen (14) feet vertical clearance.

Table 17.10.1: Required Number and Dimensions of Off-Street Loading Spaces

Gross Floor Area of Building	Number of Spaces	Dimension of Spaces
0 – 999	0	N/A
1,000—19,999	1	12 feet by 18 feet
20,000—79,999	2	14 feet by 40 feet
80,000—127,999	3	14 feet by 40 feet
128,000—191,999	4	14 feet by 40 feet
192,000—255,999	5	14 feet by 40 feet
256,000—319,999	6	14 feet by 40 feet
320,000—391,999	7	14 feet by 40 feet
392,000 or more	7– plus one for every 72,000 square feet or fraction thereof	14 feet by 40 feet

Chapter 17.11 Landscaping, Fencing and Screening

Section 17.11.010 Landscaping Requirements

A. Purpose. This Section establishes minimum standards for landscaping and site design. The City encourages developers and landowners to exceed these minimums whenever possible. Landscape is an essential element of development and seeks to:

1. Soften the urban form and visual appearance of parking lots, blank building walls, and other unsightly areas.
2. Limit the amount of continuous impervious surface and provides the opportunity for integrated storm water facilities.
3. Add shade to pavement that reduces the heat island effort.

B. Required Landscaping. All lots in all zoning districts not covered by impervious materials shall be landscaped to prevent land erosion, improper drainage, and damage to properties and unsightliness. All undeveloped building areas within partially developed commercial or industrial uses shall be landscaped with a ground cover to control dust and erosion. All development is required to obtain approval for landscape plans in accordance with these regulations, except existing lots with individual single family uses; provided that developer-installed landscaping in common areas of residential projects shall not be exempt. All landscape plans shall be designed or approved by a Colorado-registered landscape architect.

C. Allowable Landscape Materials. Selection of plant materials shall be based upon Fountain's climate and soils. Native vegetation or low water usage vegetation on water conserving design concepts shall be used whenever possible. Minimum sizes and other requirements for plant material shall be as follows:

1. Deciduous trees: two and one half (2-1/2) inch caliper.
2. Evergreen trees: six (6) feet.
3. Shrubs: five (5) gallon containers.
4. Ground cover/perennial sizes shall be selected according to growth rate, spacing and the area to be covered.
5. Thorne plant material shall not be located adjacent to public walks.
6. Clear space above public walks shall be nine (9) feet or greater.
7. Artificial plants shall not be used to comply with the requirements of this Section.
8. No more than fifty percent (50%) of the required landscaped area can be covered by non-living landscaping material. For instance, if a one (1) acre site is required to provide twenty percent (20%) landscaped area for a total of 8,712 square feet, then only half (1/2) of the total landscaped area, or 4,356 square feet, may be covered by non-living landscaping material.
9. The planting of any trees of the Ulmus genus (elm) is prohibited.

D. Landscaped Strip Required.

1. Minimum landscaping requirements for property lying adjacent to an expressway, freeway, or arterial street shall be as follows:

   a. A landscaped strip at least fifteen (15) feet in width, excluding driveways and walkways, shall be required along the entire perimeter area adjacent to the public right of way.

   b. Plant materials within the landscaped strip shall include one (1) tree and two (2) shrubs for every twenty (20) feet of street frontage.

2. Minimum landscaping requirements for property lying adjacent to a collector or local street shall be as follows:

   a. A landscaped strip at least ten (10) feet in width, excluding driveways and walkways, shall be required along the entire perimeter area adjacent to the public right of way.

   b. Plant materials within the landscaped strip shall include one (1) tree and two (2) shrubs for every twenty (20) feet of street frontage.

   c. Clustering of trees and shrubs in the landscaped strip is permitted, provided no tree shall be within five (5) feet of another.

E. Parking Lot Landscaping

1. A minimum of five percent (5%) of the gross area of all parking lots shall be landscaped. Landscaping shall be distributed throughout the parking area.

2. A minimum of one deciduous (1) tree shall be provided for every eight (8) parking spaces and may be placed in a landscape island. All deciduous trees shall be a minimum of two and one half (2-1/2) inch caliper in size.

   a. Any landscaped area used for vehicular overhang shall not be counted towards the required landscaping.

   b. Screening for Parking Lots. Parking lots with twenty (20) or more spaces shall be screened from adjacent uses and from public streets. Screening shall block at least seventy-five percent (75%) of the light from vehicle headlights. Screening from residential uses shall consist of a fence or wall six (6) feet in height in combination with plant material.

F. Easements. The layout of the landscaping shall not interfere with the function, safety or accessibility of any utility easement.

G. Landscaped areas adjacent to streets, vehicular parking, and access areas shall be protected to minimize damage to landscaping areas by vehicular traffic.

H. The Zoning Administrator may modify any of the landscape standards set forth in this Section if such standard is inappropriate to a design proposal and the intent of this Section is not violated. The applicant shall make a written request to the Zoning Administrator justifying the requested modification. A record of requested modifications shall be kept on file at the City.

I. Maintenance.

1. All landscaping shall be reasonably maintained, and any plant material shall be replaced within thirty (30) days of its demise or by an agreed upon date if seasonal conditions prohibit replacement within the thirty (30) day time requirement.
2. The maintenance of landscaping in the public right of way in all zoning districts shall be the responsibility of the abutting property owner.

J. Enforcement; Assurances for Installation and Completion

1. Prior to the issuance of a certificate of occupancy for any structure or building where landscaping is required, all landscaping shall be installed according to the approved site development plan, and the work shall be inspected and approved by the Zoning Administrator. At the time of inspection for the certificate of occupancy, the Zoning Administrator shall check the quantities, sizes and locations of landscape materials. The developer shall warrant at the time of the issuance of a certificate of occupancy that the plants installed are of the species, quantities, locations and sizes specified on the approved site development plan.
2. A certificate of occupancy for a structure or building may be obtained prior to the completion of required landscape improvements, if the completion is not possible due to seasonal or weather conditions and if the owner or developer escrows the necessary funds with the Zoning Administrator for the completion of the landscaping. Acceptable assurances for guaranteeing the completion of all landscape improvements include irrevocable letters of credit, certified checks, cash, or other assurances acceptable to the City in an amount equal to the cost of plant materials and installation work. Acceptable financial assurances shall be accompanied by written guarantees that such landscaping will be completed to the satisfaction of the Zoning Administrator within a specified period not to exceed nine (9) months from the date of occupancy.

Section 17.11.020 General Fence Regulations

A. No fence shall be allowed that will inhibit visibility and cause a safety hazard at street or driveway intersections.

B. All fences shall be constructed in a substantial workmanlike manner and shall consist of standard fence material. All fences shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, or constitute a nuisance.

C. No fence shall be higher than seven (7) feet, unless additional height is necessary by the Zoning Administrator for security, the screening of incompatible uses, required compliance with State or Federal law or others deemed acceptable by the Zoning Administrator. Barbed wire or other sharp-pointed material shall not be used in the construction of any fence, except when:

1. Located in commercial and industrial zoning districts, provided such barbed wire or other sharp-pointed material is securely affixed to the top of a soundly constructed fence or structural barrier which is at least six (6) feet above grade.
2. Used for agricultural purposes or fencing required for livestock, including horses, on areas five (5) acres or greater in size.

D. Electrified wire fences are prohibited in all zoning districts.

E. A fence may be built on the property line, but shall not be allowed to encroach upon any public right of way. Knowledge of public rights of way is the responsibility of the property owner.

F. No fence shall be placed closer to a fire hydrant than thirty-six (36) inches, and it shall not restrict the operation or use of the hydrant.

Section 17.11.030 Screening Standards

A. The intent of all required screening is to completely hide stored materials from view of persons standing on the ground outside the storage area in the locations described in the particular Section requiring the screening. If no particular location is specified it shall be interpreted as screened from view on all sides.

B. Height. All trash/refuse collection and outdoor storage areas shall be enclosed at a minimum by a six (6) foot high solid, opaque fence or masonry wall, styled to match the material of adjacent walls or the main building on the site. No materials stored within an outdoor storage area or behind a screening fence, wall or structure shall be stacked or stored in a manner in which they exceed the height of the walls, fence, or structure.

C. Materials. Screening walls, fences, or structures shall be constructed from durable materials, which will require low maintenance. Materials, which are architecturally compatible with the primary building on the site or with the streetscape or landscaping of the site, shall be used.

D. Colors. Screening devices shall blend into the landscaping and shall not be colored as to direct attention to the screen. Muted earth tones shall be used as opposed to bright colors.

E. Maintenance. All walls, fences, structures or landscaping shall be maintained in good condition.

Section 17.11.040 Buffering and Transition between Land Uses

A. Conditions Whereby Building Setbacks May Be Increased. The required minimum setbacks in any zoning district may be increased by the Zoning Administrator, Planning Commission or City Council based on any of the following conditions:

1. The use creates an adverse effect on traffic and pedestrian circulation, where such circulation is necessary to ensure the safety of people and property in relationship to existing uses.
2. The use creates an adverse effect on solar access of surrounding properties.
3. The use creates adverse shadow problems on public rights of way.
4. The siting of the use adversely impacts the abutting property, and re-siting of the use will not decrease the total gross floor area of the proposed structure.
5. The use creates nuisances such as dust, litter, noise or glare of lights.

Chapter 17.12 Signs

Section 17.12.010 Purpose and Intent

A. The purpose of this Chapter is to:

1. Promoting safety of persons and property by regulating signs so as not to confuse or distract motorists or impair drivers' ability to see pedestrians, obstacles, other vehicles, or traffic directional signs,
2. Promoting efficient communication of messages,
3. Promoting the public welfare by reducing visual clutter,
4. Assisting in wayfinding, and
5. Providing fair and consistent enforcement.

Section 17.12.020 Applicability

A. Requirements. A sign may be displayed, erected, placed, established, painted, created, altered or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of this Chapter.

B. If any provision of this Chapter conflicts with any other adopted City code that regulates signs, this Chapter shall govern.

C. Signs shall be permitted in the various zoning districts as accessory structures in accordance with the regulations contained in this Chapter.

D. Interpretation. The Zoning Administrator is authorized to render interpretations of this Chapter.

E. Permit Required. A sign permit is required for any new sign or modification to an existing sign, unless the sign is exempt from the regulations of this Chapter in accordance with Section 17.12.040. A sign application shall be submitted to the Planning Department and a sign permit issued by the Zoning Administrator under criteria set forth in this Chapter. Additional permits may be required, such as building or electrical permits, in conjunction with the sign permit application.

F. All sign permit applications shall be submitted on a form supplied by the Planning Department and include, at a minimum, the following information:

1. Street address of the proposed sign.
2. Actual shape and dimensions of the lot.
3. Building locations, height and dimensions.
4. Size, height, location, setback and type of both existing and proposed signs.
5. Name, mailing address (and e-mail address if available) and telephone number of owner and sign installer.
6. Existing zoning.

7. Elevation drawings of the proposed sign.
8. Location of existing signs on the property and on adjoining properties.
9. Additional information as the Zoning Administrator may reasonably deem necessary to process the application in accordance with the provisions of this Chapter.

G. An approved sign permit expires one (1) year from the date of issuance if a building permit for the sign or structure(s) on the property has not been issued or the sign has not been installed. One (1), six (6) month extension may be granted by the Zoning Administrator for good cause.

1. Applicant shall contact the Planning Department for an initial inspection prior to sign installation. The applicant shall stake the location of the property line, sign pole and overhang location.
2. Applicant shall contact the Planning Department for a final site inspection upon completion of sign installation.

H. Sign permits are required for temporary signs, as follows:

1. A sign permit is required for temporary signs located in all nonresidential zone districts.
2. A sign permit for an individual temporary sign shall be issued for a duration not to exceed the timeframes established by temporary sign type in Section 17.12.070. A temporary sign permit that contains a sign plan for multiple signs may be issued, with individual temporary sign durations not to exceed the timeframes established by temporary sign type in Section 17.12.070.

I. A temporary sign permit shall not be required for temporary signs located in residential zone districts. Temporary signs are not permitted in the public right of way.

J. Master Sign Plan. For any shopping center, industrial or business park or mixed use development. Shopping centers, as it pertains to Master Sign Plans, must include at least 25,000 square feet of gross floor area as well as include at least 3 or more units. The applicant shall submit a master sign plan that consists of coordinated, shared signage for the entire development.

1. Signs in the master sign plan shall have mutually unifying elements, which may include uniformity in materials, color, size, height, letter style, sign type, shape, lighting, location on buildings, and design motif.
2. A master sign plan application shall include all of the following:
   a. A table allocating sign area to each tenant, lot or pad site;
   b. A description and/or illustration of the materials to be used in wall signage; and
   c. Elevations and materials for any standard signs for the site.
3. In reviewing an applicant's submittal of a master sign plan in conformance with the provisions of this Section, the Zoning Administrator may vary the following standards:
   a. Sign area for individual signs, and maximum sign area for all allowable signs;
   b. Sign height for individual signs;

c. Sign setback or separation between freestanding pole or monument signs; and

d. Maximum number of signs, types of signs, or approved wall areas for purposes of sign location.

e. In exchange for a creative and quality design, one (1) of the above-listed standards may be altered up to twenty-five percent (25%) at the discretion of the Zoning Administrator. The Zoning Administrator may approve a greater change in a dimensional standard based on the applicant demonstrating that the change is warranted by a master sign plan and development that represents an exceptional design, the use of quality materials, increased landscaping, and/or other amenities.

K. Non-Conforming Signs. Existing signs for which a sign permit was issued pursuant to the previous provisions of this Chapter, and which have become non-conforming because of subsequent amendments to said Chapter, shall be maintained in good condition and no such sign shall be:

1. Structurally changed or altered, except to meet safety requirements.

2. Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent (50%) of the total structure, as determined by the Zoning Administrator.

3. If a sign is modified or altered beyond that allowed and noted above, the non-conforming sign shall be brought into compliance.

L. Signs in the Right of Way. Government-owned signs are permitted within the public right of way temporarily and permanently.

Section 17.12.030 Exempt Signs

A. The following signs are exempt from the sign permit requirements of these regulations, and may be placed in any zoning district subject to the provisions of this Chapter. Exempt signs shall otherwise be in conformance with all applicable requirements of this Chapter, and the construction and safety standards of the City.

1. Signs erected by, on behalf of or pursuant to the order or authorization of a governmental entity, including but not limited to traffic control, legal notice, and ADA compliance signs.

2. On premise site signs, which are not illuminated, in nonresidential and mixed use zone districts less than six (6) square feet in sign area [as defined in Section 17.12.090].

3. On premise site signs, which are not illuminated, in residential zone districts less than four (4) square feet in sign area shall also meet the following requirements:

a. A maximum of one (1) yard sign per residential property,

b. Three (3) additional signs per residential property during the nine (9) weeks before an election, extending for one (1) week after an election,

c. Signs shall not be illuminated,

d. Signs shall not exceed three (3) feet in height.

4. Signs erected by public utility companies, oil and gas companies, construction companies and the like, to warn of danger or hazardous conditions.

5. Any sign displayed on a window of a building that is not visible through a window from a public right of way.
6. Murals, as defined in Section 17.12.090.
7. Temporary and seasonal decorations and displays.
8. Signs carried by a person and not set on or affixed to the ground.
9. Flags. Flagpoles shall not exceed thirty (30) feet in height.
10. One (1) on premise sign per properly-licensed home-based business, in addition to the site signs allowed by this Chapter, and shall also comply with the following requirements.
    a. The sign may be placed on the wall of any structure or fence or mounted in the yard.
    b. Signs shall not exceed four (4) square feet in area.
    c. Signs placed in the yard may not exceed three (3) feet in height.
    d. Signs placed on fences may not be placed higher than the top of the fence.
    e. Signs placed on buildings shall be no higher than the roof or parapet line.
    f. No home-based business sign shall be electrical or illuminated, animated or constructed of reflective materials.
11. Changeable copy. No permit is required for the changing of an advertising copy or message on a lawfully erected, painted or printed sign, theater marquee, or similar signs specifically designed for the use of changeable copy.

Section 17.12.040 Prohibited Signs

The following signs are prohibited, except as noted:

A. All signs not expressly permitted under this Chapter or exempt from regulation in accordance with the previous Section are prohibited in the City.

B. Searchlights or similar devices, except as used by law enforcement or other governmental actors or agents performing their official duties

C. Off-premise signs, as defined in Section 17.12.090, apart from those exceptions listed in Section 17.12.060.

D. Signs that emit any sound which is intended to attract attention.

E. Signs attached to trees or other plant materials.

F. Unlawful vehicle sign.

G. No sign shall be attached to any utility pole or traffic control device. No sign shall be placed on any City property, any street, sidewalk or other public right of way.

H. In no event shall the minimum setback for a sign be less than four (4) feet from the edge of roadway, unless otherwise approved by the City Engineer.

I. In no event shall the following temporary sign types be permitted in the public right of way:

1. Balloons, Blimps and Inflatable Displays;
2. Banners including wave banners; and
3. Off-premise signs, except as allowed by this Chapter.

J. No sign shall obstruct the use of sidewalks, walkways, bike and hiking trails, the visibility of vehicles, pedestrians or traffic control signs, or another pre-existing lawful sign. No sign shall be permitted which may obstruct the view in any direction at the intersection of a street with another street, alley or driveway. Signs, other than government-owned signs, shall be prohibited in the traffic circles and medians. All signs shall be, at a minimum, subject to the visibility provisions of Section 17.08.030.

K. No sign shall be permitted which may contribute to confusion of traffic control devices or emergency service vehicles, or which hide or interfere with the effectiveness of such devices or vehicles.

L. Any sign within the public right of way that poses a safety hazard such as signs that have fallen over, are in a state of disrepair, are torn or faded or have otherwise been defaced to where the content of the sign is no longer legible, may be removed by the City.

Section 17.12.050 Sign Measurement

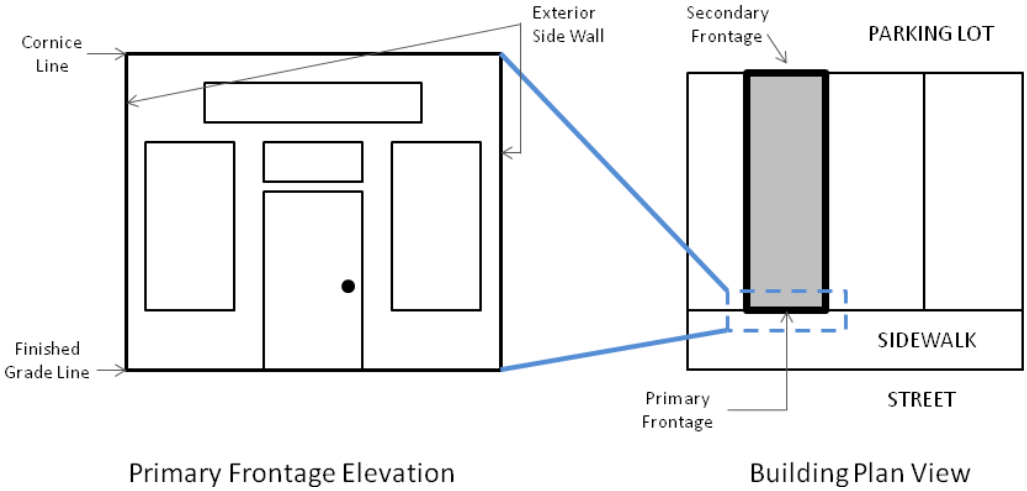
A. Computation of Sign Area.

1. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the message, logo, symbol, name, photograph, writing, representation, emblem, artwork, figure or other display used to differentiate the sign from the backdrop or structure against which it is placed (See Figure 17.12.1).
2. Any supporting framework, bracing, poles, fence or wall, or architectural feature or landscape element shall not be computed as sign area.
3. All sign faces visible from one (1) point shall be counted and considered part of the maximum total sign area allowance for a sign; when two identical sign faces are placed back to back and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the sign faces.

Figure 17.12.1: Sign Measurement Detail

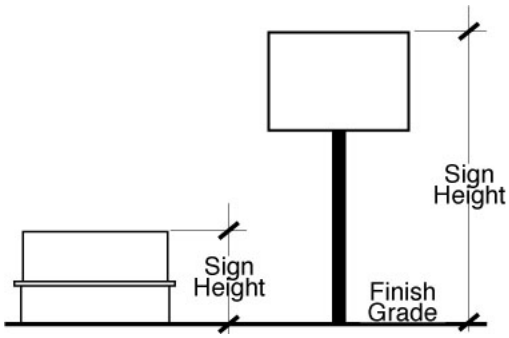
B. Computation of Façade Area. The surface area of the building elevation found within the perimeter bounded by the finish grade line, the cornice line, and exterior side walls, not including intermediate walls perpendicular to such surface as owned or leased by a business.

Figure 17.12.2: Façade Area



C. Computation of Sign Height. The height of any sign shall be determined by the distance between the top most portion of the sign structure and the average ground elevation at the base of the sign (See Figure 17.12.3). The grade shall not be artificially changed solely to affect the sign height measurement.

Figure 17.12.3: Sign Height Detail



D. Number of Permitted On-Premise Signs. Each individually-licensed business establishment may have a maximum of one (1) primary sign and one (1) secondary sign located upon its licensed premises as described in Table 17.12.1 and 17.12.2 below. These signs may be approved on elevations other

than those directly facing the primary or secondary frontage; however, sign dimensions, including sign area and letter height, shall be calculated based on the façade area on which the sign is attached.

Table 17.12.1. Primary Sign Area.

Façade Area (square feet)	Maximum Sign Area
0 - 999	10%, up to 75 sq. ft. maximum
1,000 - 1,499	9%, up to 100 sq. ft. maximum
1,500 – 2,999	8%, up to 150 sq. ft. maximum
3,000+	6%, up to 200 sq. ft. maximum

Table 17.12.2. Secondary Sign Area

Façade Area (square feet)	Maximum Sign Area
Any façade or facade area* (*Based on facade area on which it is located)	5%, up to 30 sq. ft. maximum

1. For a nonresidential use located within a one-quarter (1/4) mile radius of an interstate highway interchange, one (1) on-premise freestanding pole sign with a sign area of up to four hundred eighty (480) square feet is permitted in addition to the allowed number of permitted on-premise signs provided that such sign is located upon property with the written consent of the property owner and is otherwise in compliance with the Colorado Outdoor Advertising Act and the regulations promulgated thereunder.
2. The allowable sign area for exempt signs listed in Section 17.12.030 shall not be included in sign area calculations.

Section 17.12.060 Standards for Specific Permanent Sign Types

A. General. The following standards are applicable to all permanent signs:

1. Sign Identification. All permanent signs shall be identified by a label, nameplate or trademark identifying the manufacturer and/or installer of the sign to permit the City to contact the same in the event that the sign design, fabrication or installation causes a threat to the public health, safety or welfare.
2. Owner Consent. No sign permit for any permanent sign shall be issued for any sign on private property without written consent of the property owner or the owner's authorized agent.
3. Location. All signs shall be located on property owned or controlled by the person or entity locating and in control of the sign, except as otherwise allowed by this Chapter. In addition, signs may be located as determined below:
    a. Multiple Businesses within Common Building: When multiple business are within one (1) building, the calculation of permissible sign area for an individual business shall be based upon the portion of the building façade area controlled by that business.

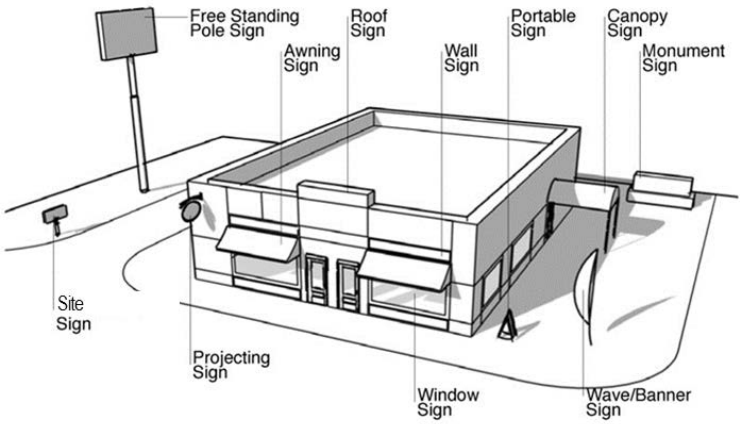
b. Businesses with No Frontage: In those instances where a business has no frontage on any street, the Zoning Administrator may approve one (1) exterior wall sign not to exceed fifteen (15) square feet.

4. Lighting. Lighting for signs shall be held to the minimum needed to convey the sign's message and illuminate only the intended sign. The light from any light source intended to illuminate a sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not cause glare to adversely affect surrounding properties, or cause glare to adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas.

5. Overhangs. The lowest point of a sign that extends over an area intended for pedestrian or vehicle area shall not be less than nine (9) feet above the finished grade below it.

6. Sign Types Allowed by Use. Specific sign types are allowed for residential and nonresidential uses as noted in this Chapter. Sign type examples are provided in Figure 17.12.4 below.

Figure 17.12.4: Sign Type Examples



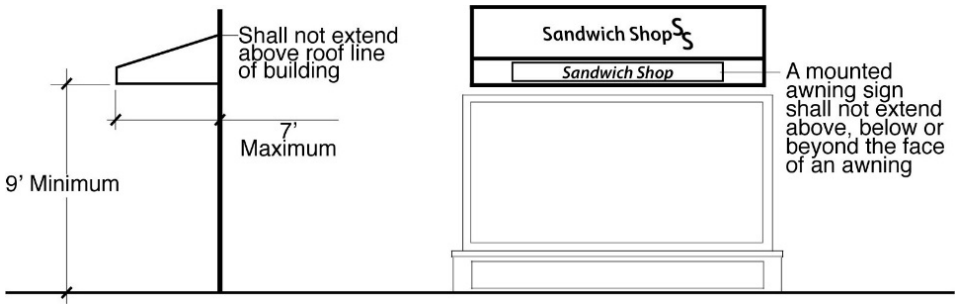
A. Awning Signs.

1. Location. Awning signs are only allowed in nonresidential zone districts. Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way. An awning may include a printed or mounted sign. No sign mounted to an awning shall project beyond, above or below the face of an awning.

2. Height. No structural element of an awning shall be located less than nine (9) feet above finished grade. Awnings on which signs are printed or mounted shall not extend over a public right of way more than seven (7) feet from the face of a supporting building. No awning shall extend above the roof line of any building.

3. Lighting. Awnings shall not be internally illuminated. Lighting directed downwards that does not illuminate the awning is allowed.

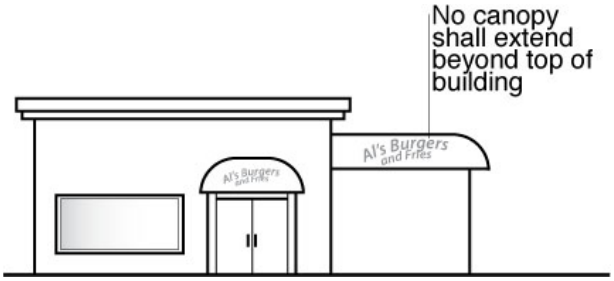
Figure 17.12.5: Awning Sign Detail



B. Canopy Signs.

1. Height. No canopy shall extend above the roof line of any building, except in the case of fueling stations. No canopy sign shall project above the top of the canopy upon which it is mounted. However, a sign may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than twelve (12) inches.

Figure 17.12.6: Canopy Sign Detail



C. Electronic Message Centers (EMCs).

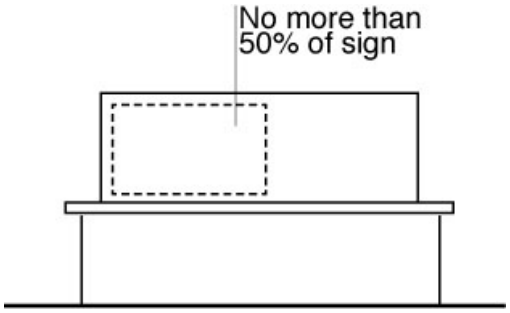
1. Location. EMCs signs are only allowed in nonresidential zones and educational institutions. An electronic message center may be integrated into an on-premise, wall sign or freestanding pole or monument sign only. Existing signage proposed for conversion to the use of an EMC shall conform to the sign standards in this Chapter prior to issuance of a sign permit. Non-conforming signs shall not be eligible for conversion to an EMC.

2. Height. The sign shall comply with the quantity, area and height requirements established for wall sign or freestanding pole or monument signs below. The maximum size of an EMC on any individual sign shall not exceed fifty percent (50%) of allowable sign area. EMCs shall not be eligible for the bonus provided in Section 17.12.020 for master sign plans.

3. Lighting. Lighting from the electronic message center shall not exceed 0.3 foot-candles between dusk to dawn as measured from the sign's face. The EMC shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or cause glare to adversely affect safe vision of pedestrians. Documentation shall be provided from the sign manufacturer which verifies compliance with auto dimming and brightness requirements.

4. Transition Method. The electronic message center shall be limited to static messages, changed only through either dissolve or fade transitions, which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing scintillating or varying of light intensity.
5. Transition Duration. The transition duration between messages shall not exceed one (1) second.
6. Message Hold Time. The message hold time shall be a minimum of ten (10) seconds.

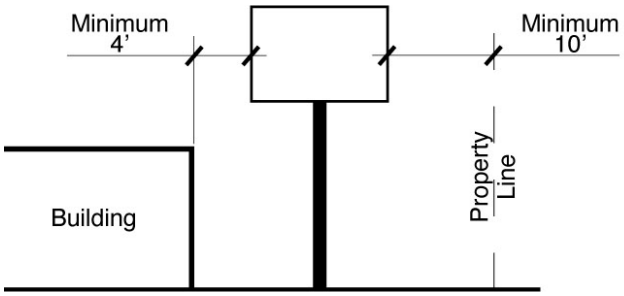
Figure 17.12.7: Electronic Message Center Detail



D. Freestanding Pole Signs.

1. Location. Freestanding pole signs are only allowed in nonresidential zone districts. The sign shall be located on a site frontage adjoining a public or private street, easement or right of way. No freestanding sign can be erected closer than ten (10) feet from any property line, or closer than four (4) feet to any building (See Figure 17.12.8). No freestanding signs shall be located less than twenty-five (25) feet from any property line adjacent to a residential zoning district line.
2. Height. Not to exceed thirty (30) feet.
3. Maximum Size. No freestanding sign shall exceed fifty (50) square feet of area per face.
4. Landscaping. Landscaping shall be provided at the base of the supporting structure in an appropriate amount to be determined by the Zoning Administrator during review of a sign plan. The Zoning Administrator may waive this requirement if it is determined that the landscaping would not contribute significantly to the overall aesthetic character of the project, or if physical conditions of the site would preclude all or a portion of the landscaping.

Figure 17.12.8: Freestanding Pole Sign Detail



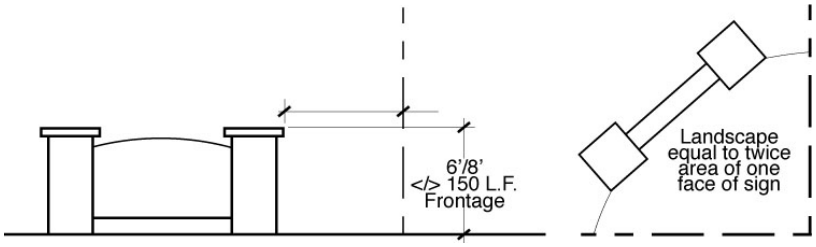
E. Monument Signs.

1. Location. Monument signs in nonresidential zone districts shall follow the sign area allowances described in Section 17.12.050. Monument signs in a residential subdivision are allowed one, thirty-two (32) square foot sign located at one vehicular entry to the platted subdivision. The sign shall be located on a site frontage adjoining a public or private street, access easement or right of way. The minimum setback from any property line shall be equal to the height of the sign. When located near driveways or intersections, signs shall maintain a clear sight triangle. Upon approval of the Zoning Administrator, a monument sign can be integrated into a fence or wall.

2. Height. Shall not exceed eight (8) feet at finished grade for nonresidential zone districts and six (6) feet for residential zone districts.

3. Landscaping. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, twenty (20) square feet of sign area equals forty (40) square feet of landscaped area. The Zoning Administrator may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project, or if physical conditions of the site would preclude all or a portion of the landscaping.

Figure 17.12.9: Monument Sign Detail



F. Off-Premise Signs. No off-premise signs are permitted with the exception of:

1. Signs within a shopping center established through a master sign plan per Section 17.12.020.

2. Certain temporary signs as described in Section 17.12.070.

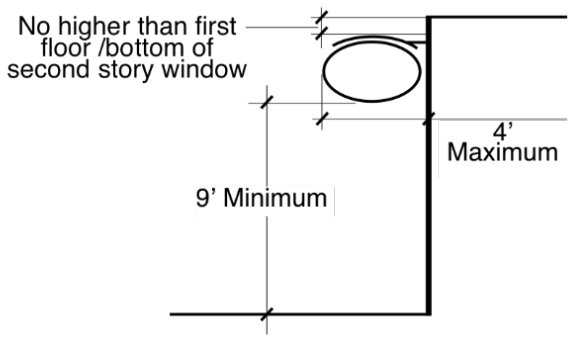
3. Billboards existing prior to the adoption of Ordinance Number 785.

G. Projecting Signs.

1. Location. Projecting signs are only allowed in nonresidential zone districts. Projecting signs shall be placed on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access. The sign shall not extend more than four (4) feet from the building wall.

2. Height. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single story building, or the height of the bottom of any second story window if attached to a multi-story building. Projecting signs shall have a minimum of nine (9) feet clearance.

Figure 17.12.10: Projecting Sign Detail



H. Roof Signs.

1. Location. A permanent roof sign may be permitted in nonresidential zone districts subject to approval by the Zoning Administrator, based on the following criteria:

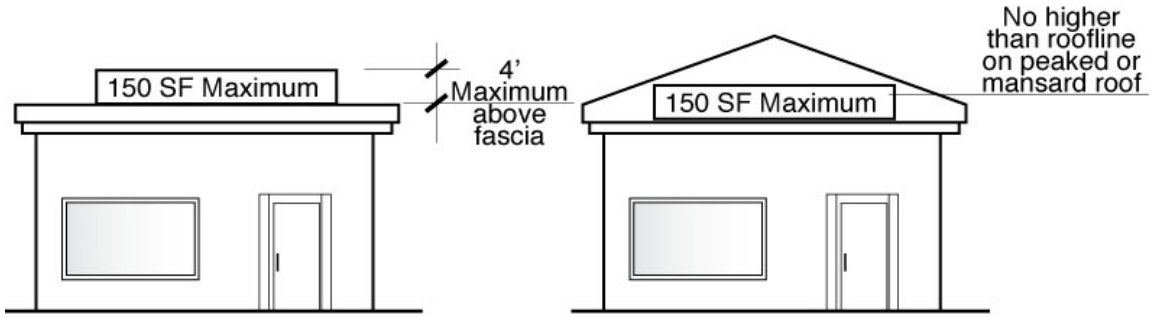
   a. The nature of the use, the size of the site or other physical constraints results in a situation where either a wall or freestanding sign cannot be installed without practical difficulties.

   b. The negative impact on the visual character of the site or surrounding area resulting from the installation of a roof sign can be minimized through the use of quality materials and compatible colors.

   c. The sign is not a temporary sign, and does not include an EMC.

2. Height. No higher than four (4) feet above the roofline, parapet or fascia wall on a flat roof. No higher than roofline on a peaked or mansard roof.

Figure 17.12.11: Roof Sign Detail



I. Wall Signs.

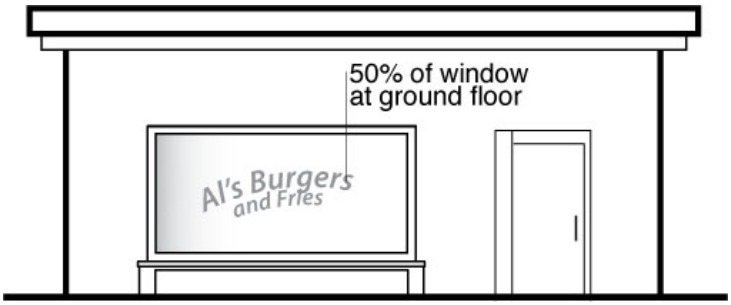
1. Location. Wall signs are only allowed in nonresidential and mixed use zone districts, excepting those signs exempted pursuant to Section 17.12.030. The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail. No sign part, including cut-out letters, may project from the building wall more than required for construction purposes and in no case more than twelve (12) inches.

2. Height. Wall signs shall not be higher than the eave line of the building on which they are placed.

J. Window Signs.

1. Maximum Coverage. When a sign is displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed fifty percent (50%) of the window or door area at the ground floor level. If this provision conflicts with the allowed primary or secondary sign size, this provision shall prevail.

Figure 17.12.12: Window Sign Detail



K. Additional Site Signs Located in nonresidential and mixed use zoning districts may be illuminated and shall not count towards the primary and secondary sign area, provided:

1. Each sign does not exceed six (6) square feet.

2. If freestanding, does not exceed three (3) feet in height. Not located above fence or roofline if affixed to a structure or fence.

3. Otherwise complies with the requirements of this Chapter, including but not limited to, lighting and window coverage.

Section 17.12.070 Temporary Signs

A. General. The following applies to all temporary signs:

1. Unless otherwise provided for in this Section, temporary signs shall not be displayed for a time period exceeding ten (10) weeks in a calendar year. A longer time period may be approved by the Zoning Administrator on a case-by-case basis.

2. Display time may be any combination of consecutive days or weekend periods in a calendar year.

B. Balloons, Blimps and Inflatable Displays.

1. Balloons, blimps, or other inflatable displays are allowed for grand openings and special events within any zoning district.
2. Balloons, blimps and other inflatable displays shall be securely anchored or tethered to the ground, building or structure.

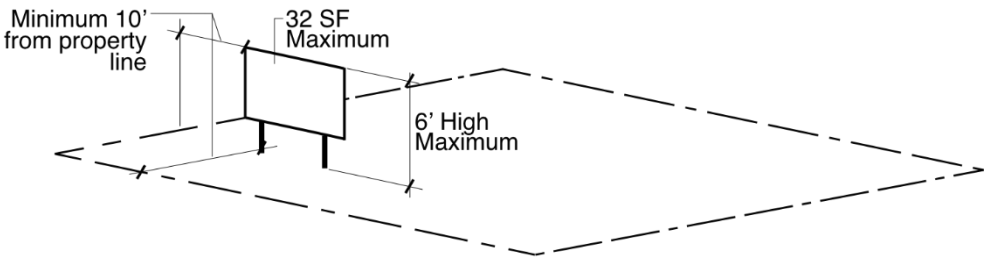
C. Banners.

1. Residential Zoning Districts and Uses:
    a. Banners in residential zone districts shall not exceed one-fifth (1/5) square feet of area per lineal foot of property line on residentially or mixed use zoned lots, up to a maximum area of one hundred (100) square feet;
    b. However, no one (1) banner shall exceed thirty-two (32) square feet in area.
2. Nonresidential and Mixed Use Zoning District Uses:
    a. Banners in nonresidential zone districts shall not exceed one and one-half (1-1/2) square feet for each linear foot of exterior wall.
3. Allowable square footage can be split among several banners or allocated to one (1) single banner.
4. No banner shall be illuminated, animated or constructed of reflective materials.
5. Each banner must remain firmly attached to the building, structure or other apparatus (e.g. fences, t-posts, poles, etc.) from which it is displayed.
6. Banner display shall comply with Section 17.12.020; banners shall not be attached to vehicles.

D. Site Signs.

1. Sites Under Construction.
    a. One (1) sign shall be allowed per lot.
    b. Sign Size:
        i. In nonresidential and mixed use zoning districts, the sign shall not exceed thirty-two (32) square feet in area.
        ii. In residential zoning districts, the sign shall not exceed sixteen (16) square feet in area.
    c. The sign shall be setback a minimum of ten (10) feet from any property line, and shall not exceed six (6) feet in height.
    d. Such signs shall not be erected until a building permit has been issued for the building or structure on the lot.
    e. This temporary sign shall be removed within fourteen (14) days after the issuance of a certificate of occupancy for the building or structure.

Figure 17.12.14: Temporary Site Sign Detail



2. Developed Sites.

    a. Nonresidential and mixed use zone districts shall be allowed site signs in accordance with Section 17.12.030 for Exempt Signs and 17.12.060 Standards for Specific Permanent Sign Types, as applicable.

    b. Residential zone districts shall be allowed site signs in accordance with Section 17.12.030 for Exempt Signs.

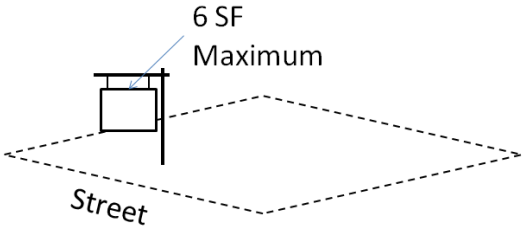
E. Swing Signs.

1. Residential Zoning Districts and Uses:

    a. One (1) sign not to exceed up to six (6) square feet in area.

    b. Signs shall not extend into the public right of way.

Figure 17.12.14: Temporary Residential Swing Sign Details

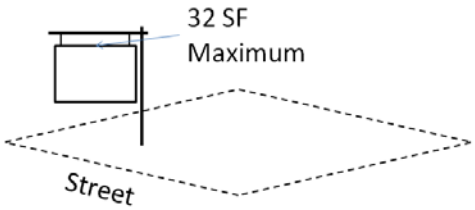


2. Nonresidential and Mixed Use Zoning Districts and Uses:

    a. One (1) sign per street frontage not to exceed thirty-two (32) square feet in area per face.

    b. Signs shall not extend into the public right of way.

Figure 17.12.15: Temporary Nonresidential Swing Sign Details



F. Portable Signs.

1. Nonresidential and Mixed Use zone districts.

   a. Portable signs shall be securely anchored to the ground, a building, or structure, and weighted sufficiently to prevent movement by wind.

   b. Portable signs may be displayed only during the business hours of the holder of the temporary sign permit.

   c. No more than one (1) portable sign shall be permitted per business, per street frontage.

   d. A portable sign shall not exceed sixteen (16) square feet in area.

   e. A portable sign shall not exceed four (4) feet in height.

Section 17.12.080 Sign Design, Installation and Maintenance

A. Sign Design.

1. The design of a sign shall logically relate to the average speed of the motorists who will see it. Signs shall not be distracting or unsafe to motorists reading them.

2. All signs shall be designed to complement or enhance the other signs for a building or development. Whenever possible, signs located on buildings with the same wall elevation shall be placed at the same height, in order to create a unified sign band.

B. Sign Installation.

1. All permanent signs and all components thereof, including sign structures and sign faces, shall be installed in compliance with all building and electrical codes.

2. Except for flags, window signs, portable signs and temporary signs conforming to the requirements of this Chapter, all signs shall be constructed of high quality durable materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

C. Sign Maintenance.

1. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Chapter, at all times.

2. All signs, including sign structures and sign faces, shall be kept neatly painted, including all metal parts and supports that are not galvanized or of rust-resistant metals, and in a general state of good repair. For the purposes of this Section, good repair shall mean that there are no loose, broken, torn or severely weathered portions of the sign structure or sign face or fading of the sign such that the sign message is no longer legible.

3. Any permanent sign that is located on property held in common ownership, such as a home owners association, shall be placed within a sign easement or sign tract that is recorded in the Office of the El Paso County Clerk and Recorder with ownership and maintenance provisions specified.

4. Any sign located upon a nonresidential premise that has not been occupied or in operation for a consecutive period of one hundred eighty (180) days shall be deemed as abandoned and shall be promptly removed.
5. The Zoning Administrator may inspect any sign and shall have authority to order the painting, repair, alteration or removal of a sign and/or sign structure that constitutes a hazard to safety, health or public welfare by reason of abandonment or inadequate maintenance, dilapidation or obsolescence.
6. All EMC displays shall be equipped with a malfunction display and the ability to automatically shut off if a malfunction occurs. An electronic message center under repair shall be shut off.

Section 17.12.090 Definitions Specific to Signs

A. As used within this Section, the following terms, phrases, words and their derivations shall have the following meanings:

1. ***Animated Sign.*** Any sign which has any visible moving part, flashing lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, or visibly alters in appearance in a manner that is not permitted by this Chapter.
2. ***Awning Sign.*** A wall sign which is painted, stitched, sewn or stained onto the exterior of an awning. An awning is a movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.
3. ***Banner.*** A temporary sign having characters, letters illustrations or ornamentations applied to flexible material (e.g. vinyl, plastic, canvas, cloth, fabric or other lightweight non-rigid material) with only such material for a backing, which may project from, hang from or be affixed to a building, structure or other device such as fences, t-posts or poles. Banners include but are not limited to building decals, cable-hung banners and wave banners.
4. ***Canopy Sign.*** A wall sign that is permanently affixed to a roofed shelter supported by a building, or combination of a building and columns.
5. ***Changeable Copy.*** A portion of a sign copy which may be easily changed by mechanical or manual means or lighting effects without reworking, repainting, or otherwise altering the physical composition of the sign for the primary objective of displaying frequently changing copy incident to the sign owner's business.
6. ***Electronic Message Center (EMC)***. A sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, including animated graphics and video.
7. ***Freestanding Pole Sign***. Any non-moveable sign, not affixed to a building, with poles or supports.
8. ***Message Hold Time***. The time interval a static message must remain on the display before transitioning to another message.

9. ***Monument Sign.*** A freestanding sign with the entire bottom of the sign affixed to the ground.
10. ***Mural.*** A picture or graphic illustration applied directly to a wall of a building that contains no text.
11. ***Non-Conforming Sign.*** Any sign that does not conform to the requirements of this Chapter.
12. ***Off-Premise Sign.*** A stationary sign or billboard located off the premises of the principle business or use conducted by the holder of the sign permit.
13. ***On-Premise Sign.*** A sign located on the premises owned or controlled by the person or entity proposing or controlling the sign.
14. ***Permanent Sign.*** Any sign constructed of permanent materials and permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
15. ***Portable Sign***. A moveable sign that is not permanently affixed to a building, structure, or the ground.
16. ***Primary Frontage.*** The side of the building providing the main vehicle and/or pedestrian access, and/or the business primary orientation.
17. ***Primary Sign.*** A sign on the primary frontage of the building.
18. ***Projecting Sign.*** A sign that is wholly or partly dependent upon a building for support and which projects horizontally beyond the surface of the building to which the sign is attached.
19. ***Roof Sign.*** Roof sign shall mean a sign on or above a roof of a building or structure.
20. ***Secondary Frontage.*** The side of the building other than the main vehicle and/or pedestrian access
21. ***Secondary Sign.*** A sign on the secondary frontage of the building.
22. ***Sign.*** Any material, structure, or device, or part thereof, composed of letter or pictorial matter, or on which lettered or pictorial matter is placed when used or located outside or on the exterior of any building, including an inside window display area, and includes sign frames, billboards, readerboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs when the same is placed in view of the general public.
23. ***Sign Area***. The total display surface of a sign, exclusive of frames, posts and other supporting structure. Each side, or face, of a sign shall be measured in determining the sign area.
24. ***Sign Height***. The distance between the top most portion of the sign structure and the average ground elevation at the base of the sign.
25. ***Sign Structure.*** Any supports, uprights, braces, or framework of a sign.
26. ***Site Sign.*** A type of sign that is attached to the building, as projecting or wall signs, suspended from a canopy, or included as an integral part of a freestanding sign.
27. ***Swing Sign.*** A temporary portable sign constructed of paper, vinyl, wood, metal or other comparable material, and designed or intended to be displayed for a limited period of time.

28. ***Temporary Sign.*** Any banner, blimp, wind or fan-driven sign, or other sign constructed of light fabric, cardboard, wallboard, plywood, sheet metal, paper or other light materials, with or without a frame, intended or designed to be displayed for a limited period of time.

29. ***Traffic Control Sign*.** A sign erected in a public right of way by an authorized governmental agency for the purposes of traffic regulation and safety.

30. ***Transition Duration***. The time interval it takes the display to change from one complete static message to another complete static message.

31. ***Transition Method.*** A visual effect applied to a message to transition from one message to the next. Transition methods include:

    a. Dissolve – a frame effect accomplished by varying the light intensity or pattern, where the first frame gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second frame.

    b. Fade – a frame effect accomplished by varying the light intensity, where the first frame gradually reduces intensity to the point of not being legible (i.e. fading to black) and the subsequent frame gradually increases intensity to the point of legibility.

32. ***Unlawful Vehicle Sign.*** A vehicle or trailer parked so as to be visible from a street for more than twenty-four (24) hours and have the effect of directing attention to a business or profession, to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the vehicle or trailer is located or to another location, except vehicles regularly operated as part of the business and leaving the business premises on a regular basis for a business purpose and when the primary purpose of such vehicles shall not be for the display of signs.

33. ***Wall Sign***. A sign painted on or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall in such a manner that the wall forms the background surface of the sign.

34. ***Wayfinding Sign***. A sign authorized by a governmental body for placement in the public right of way that is designed to orient and navigate the general public from place to place.

35. ***Window Sign.*** A sign that is painted on, applied or attached to an exterior window or glass door. A window sign does not include merchandise or models of products or services incorporated in a window display.

Chapter 17.13 Supplemental Standards

Section 17.13.010 Utilities.

A. All new residential and nonresidential electric distribution lines shall be placed underground unless the Utilities Director approves overhead installation. Such authorization shall be granted if the Utilities Director finds that overhead installation is necessary, no reasonable alternative to overhead lines exists, and overhead installation will meet the purposes of this Title. Nothing in this Chapter shall be construed to prohibit construction or installation of a public utility use or structure

necessary for transmission of commodities or services of a utility company, through mains or distribution lines, in any zoning district.

Section 17.13.020 Recreational Vehicles, Campers, Motor Homes, Trailers or Similar Vehicles

A. No recreational vehicle, camper, motor home, trailer or similar vehicle shall be used for a dwelling unit, accessory building, storage or other use as allowed by Chapter 17.04 Zoning Districts or unless located within an approved RV Park subject to all rules and regulations governing the district and RV Park.

Section 17.13.030 Temporary Uses

A. Designated. A temporary use permit may be issued for the uses in Table 17.13.1 by the Zoning Administrator upon submittal of an application and site development plan or plot plan and any additional information required by the Zoning Administrator. Such permits shall be valid only for the period and renewal time specified in Table 17.13.1 below. The Zoning Administrator may permit in a particular district a permitted principal use and a temporary use not listed in this Title provided that such use is of the same general type as the uses permitted by this Title. The following review criteria may be used in the approval of any temporary use permit:

   1. All temporary uses must comply with the number of required off-street parking spaces.
   2. The temporary use and proposed location will not jeopardize, endanger or otherwise constitute a menace to the health, safety or general welfare of the public.
   3. The temporary use will have no unreasonable adverse effect on nearby properties.
   4. The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
   5. Only one (1) temporary use is allowed per lot or parcel at a time.
   6. The temporary use is in conformance with all standards and criteria of this Section.

B. Any use within City right of way will require approval of a Revocable Permit, obtained through the City Clerk's office. Uses on public property may require additional permits.

C. The Zoning Administrator may revoke the temporary use permit for failure to comply with the terms and conditions of the permit, Ordinances of the City of Fountain or any statutes of the State of Colorado, if applicable. The revocation shall be provided through a written notice to the permit holder by the Zoning Administrator and shall be effective immediately or as otherwise specified in the notice.

D. Renewals may be granted by the Zoning Administrator for the time periods specified in the table below and for the consecutive time period as originally granted. The Zoning Administrator may grant additional renewals over the maximum allowed in Table 17.13.1 based on the following criteria:

   1. Special and extenuating circumstances applicable to the use,

2. Strict enforcement would cause an unnecessary hardship that is not based on lack of knowledge of these regulations,
3. Time extension requested is the minimum time period needed to address the hardship,
4. Granting of the extension will not injure the appropriate use of the property on which is it located or adjacent properties, and
5. Time extension requested shall not be for more than double the amount originally allowed.

E. The City of Fountain, at its discretion, may deny or revoke such uses in order to prevent a temporary use from becoming a permanent use under the temporary use guidelines.

F. All temporary uses must comply with all water, wastewater, electric and other utility rules and regulations.

Table 17.13.1 Temporary Uses

Use	Consecutive Time Period Permitted	Districts*	Renewals
Special event	3 Days	RA & LLR	2
Auto sales	Two (2) weeks	Nonresidential	2
Carnival, circus, bazaar, fair, festival	Two (2) weeks	Nonresidential and Mixed Use	1
Christmas tree sales	Sixty (60) days	Nonresidential and Mixed Use	N/A
Classrooms for public schools in module units designed for that occupancy classification	Unlimited	All	N/A
Construction equipment yards (Only if located on same site as specified project or subdivision)	Six (6) Months	All	1
Construction offices, which also can be used as security quarters incidental to construction on the premises	Six (6) months after project approval	All	1
Construction storage trailer: location to be approved by the Zoning Administrator; cannot be used as an advertising device	Six (6) months	All	1
Farmers Markets	Six (6) months	All	None
Flea Markets	Six (6) months	Nonresidential and Mixed Use	None
Mobile businesses such as, healthcare providers and screening operations, food vendors, concession stands,	One (1) year	All (Cannot be located in a fixed location in a residential area)	N/A

Use	Consecutive Time Period Permitted	Districts*	Renewals
animal grooming, and similar activities			
Noncommercial batching plant located within one (1) mile of the construction site for which the concrete or asphalt is to be used	Until completion of project	Nonresidential	N/A
Offices and child care facilities in module units designed for that occupancy classification	One (1) year	Nonresidential and Mixed Use	1
Real estate offices and model homes incidental to a new housing development	Until completion of the subdivision	All	N/A
Retail Sales of Fireworks	May 31st to July 6th	All commercial and industrial zone districts, including PUD zone districts. Excluding all mixed use zone districts.	None
Seasonal sale of farm produce or other food products (roadside stand). Any structures used for display shall be removed during the period when not in use	Four (4) months	All (Cannot be located in a fixed location in a residential area)	1
Storage Containers	One (1) year	All	1
Similar uses which in the opinion of the Zoning Administrator meet the definition of a temporary use			

* For all PUD zoned parcels, the governing Master Plan or Overall Development Plan land use will be used to determine residential or nonresidential district classifications.

Section 17.13.040 Architectural Review

A. The purpose of architectural review is to promote the preservation of the visual character of the City, to guard against the construction of poorly designed structures, to prevent the use of improper or unsuitable materials, and in general, to promote higher design quality. The Zoning Administrator, Planning Commission and City Council may require architectural perspectives and building elevations as part of the review process for proposed developments or uses including accessory uses and structures and may impose conditions. It is not the intent of this Section to rigidly control architectural character so that individual initiative is stifled, to enforce one uniform architectural style or to require additional expenses for development. The following are general guidelines and conditions that the Zoning Administrator shall impose upon the approval of Site Specific

Development Plans, if applicable. Additional requirements and conditions may be stipulated on the site development plan and plot plan by the Zoning Administrator:

1. Where the principal use on the property is nonresidential:
    a. All metal structures that are proposed for construction with exterior metal siding shall be designed to have an exterior appearance of conventionally built structures, where the sides of the building that are directly adjacent to a residential use and/or that are most visible to pedestrians shall include exterior surfaces that have at least 25% non-metal material and include either stucco, plaster, glass, stone, brick, or decorative masonry. Shiny raw metal surfaces on building sides and roofs are prohibited, except as accents.
    b. All accessory structures shall be of the same color scheme and material as that of the main structure.
    c. The construction material and color scheme of all structures shall be harmonious with the adjacent properties.
    d. The use of bright, intense, extreme or neon colors shall not be permitted, except as accents.
    e. Long blank walls are not allowed.
    f. Buildings shall not be designed or oriented to expose loading docks, service areas or nonresidential overhead doors to roadways.
    g. Roof-mounted mechanical units or other similar equipment, excluding solar or wind equipment, shall be screened from public view by the extension of a parapet wall or point-in-place screening. Mechanical equipment may be painted the same color scheme of the structure.
    h. Fabric covered structures are not permitted.
2. Metal buildings used as residential accessory structures shall be:
    a. Compatible in color to the primary structure,
    b. Designed to have an exterior appearance of conventionally built structures, where the sides of the building that are directly adjacent to a residential use and/or that are most visible to pedestrians shall include exterior surfaces that have at least 25% non-metal material and include either stucco, plaster, glass, stone, brick, or decorative masonry.
    c. Shiny raw metal surfaces on building sides and roofs are prohibited, except as accents.

Section 17.13.050 Relocations of On-Site Built Structures

A. No residential or nonresidential on-site built structure shall be moved onto any lot within the City unless the structure was constructed no more than ten (10) years prior to the effective date of this Title, unless the structure is upgraded to conform to the Pikes Peak Regional Building Code. Historical structures are exempted from this Section as defined by State, National or local registry and regulations.

Section 17.13.060 Carports

A. Pre-manufactured or membrane carports are only permitted if accessory to single family and two-family lots or parcels.

B. For all pre-manufactured or membrane carports, the property owner or occupant must submit a plot plan to the City of Fountain that includes the following information:

1. Address of property,
2. Location of residence and carport,
3. Dimensions of proposed carport,
4. Location of all easements, right of ways and sidewalks,
5. Structural setbacks,
6. Structural height,
7. Lot coverage, and
8. Any other information deemed pertinent by the Zoning Administrator.

C. Pre-manufactured or membrane carports less than two-hundred (200) square feet in area do not need to comply with the applicable zone district development standards; however, they must be anchored to the ground. The exemption from zone district development standards does not supersede any requirements by homeowners associations or metropolitan districts.

D. Pre-manufactured or membrane carports that are greater than two-hundred (200) square feet must comply with all zone district development and dimensional standards including but not limited to setbacks, lot coverage and structural height and are required to obtain a building permit from Pikes Peak Regional Building Department. Carports are exempt from the setbacks outlined in Section 17.07.050.

E. All attached carports regardless of size must obtain a building permit from Pikes Peak Regional Building Department.

F. All site built (i.e. wood framed) carports regardless of size must obtain a building permit.

G. At no time shall carports overhang or otherwise adversely affect adjacent properties due to runoff of rain, snow, sleet etc. or interfere with sidewalks or public right of ways.

H. Carports shall not be constructed or maintained in the area identified as the sight distance area (a.k.a. sight triangle) between three (3) feet in height and nine (9) feet in height above the roadway. Nothing shall intrude into the sight triangle so as to obscure or block the visibility of any traffic.

I. Only one (1) carport shall be permitted per property.

J. All carports must remain as originally built and approved and are only for the storage of vehicles as defined in Chapter 8.20 of the Fountain Municipal Code. A carport does not meet the requirements for storage of inoperable vehicles or junk.

ARTICLE IV SPECIAL USE REQUIREMENTS AND DEVELOPMENT OPPORTUNITIES

Chapter 17.14 Industrial and Commercial Performance Standards

Section 17.14.010 Purpose and Intent

The purpose of these standards is to ensure potential industrial nuisances are measured factually and objectively; to ensure that all industrial or commercial uses will provide methods to protect the community from hazards and nuisances which can be prevented by control and nuisance elimination; and to protect industries from arbitrary exclusion from the City based solely upon the nuisance production by any particular type of industry.

Section 17.14.020 Applicability

A. All industrial and commercial businesses shall comply with the following standards so that such uses do not create any danger to public safety in surrounding areas, do not cause water pollution, and do not create offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences beyond the boundaries of the property in which such uses are located; and shall not be operated in any manner so as to constitute a public nuisance or hazard.

1. Site Development Plan. All industrial uses shall be shown on a site development plan submitted to and approved by the Zoning Administrator.

2. Vibration. Industrial or commercial operations shall cause no vibration perceptible to a person of ordinary sensory perception and abilities located outside the property boundaries. Temporary construction sites are excluded from this restriction.

3. Light. Exterior lighting, except for overhead street lighting and warning, emergency or traffic signals, shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public streets and walkways or into any residential area. The installation or erection of any lighting, which may be confused with warning signals, emergency signals or traffic signals, is prohibited.

4. Smoke and Particulate Matter.

    a. Every use shall be so operated that it does not emit smoke exceeding a density of No. 1 on the Ringleman Chart.

    b. Every use shall be so operated that it does not emit particulate matter exceeding 0.2 grains per cubic foot of flue gas at a stack temperature of 500˚F. Monitoring may be required to ensure emissions do not exceed the maximum levels.

    c. Every use which is an existing or potential source of air contamination shall be subject to the approval of the Colorado Department of Health, Air Pollution Control Division.

    d. Emission of heat, glare, radiation and fumes: Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any

boundary line of the property on which the use is located and shall conform to the standards established by the Colorado Department of Health.

5. Odors. No industrial or commercial use shall emit or allow the emission of odor that is detectible to a person of ordinary sensory perception and abilities outside the property boundaries.

6. Noise. Every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed sixty (60) decibels with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one (1) hour at any point of any boundary line of the property on which the use is located. This requirement governs noise emissions for purposes of this Chapter 17 only, and does not affect or otherwise limit the applicability of Chapter 9.36 Disturbing the Peace and Noise for all other purposes.

7. Fugitive Dust. No industrial or commercial operation shall produce or cause fugitive dust outside of the property boundaries of the use.

8. Loading and Outdoor Storage Areas. All truck and other loading areas and outdoor storage areas shall be designed and operated to minimize any adverse effects upon traffic and adjacent properties. Loading and outdoor storage areas shall also comply with the requirements in Chapter 17.04 Zoning Districts, Chapter 17.09 Off-Street Loading and Chapter 17.11 Landscaping, Fencing and Screening.

9. Industrial and Commercial Wastes. All industrial and commercial operations shall confine liquid and solid wastes produced in connection with such operation within the property boundaries, and shall further ensure that no such waste leave the property or enter any natural stream course. This shall not apply to the appropriate and proper disposal of liquid and solid waste.

10. Electromagnetic and Microwave Radiation. To the extent that the City may regulate pursuant to Federal or State law, no electromagnetic or microwave radiation shall be permitted if such radiation causes adverse disturbances at or beyond the boundaries of the property.

11. Fire and Explosion. No activity shall be conducted or material of hazardous characteristics stored or used which may potentially cause a fire, explosion or other physical hazard to person or property, unless in conformance with the Uniform Fire Code and other applicable Ordinances and criteria.

12. Storage and Handling of Hazardous Substances. The storage and handling of materials or substances determined to be hazardous substances as defined by C.R.S. 25-5-502, as existing or as hereafter amended, or determined after hearing by the City Council, after Planning Commission review, to be hazardous to the health safety or welfare of the residents of the City, shall not be allowed in conjunction with industrial and commercial uses except in accordance with all applicable Federal, State and City regulations. This subsection shall apply to the container of the hazardous substance as well as to the substance itself.

Chapter 17.15 Tiny Home Development

Section 17.15.010 Purpose and Intent

The purpose and intent of this Chapter is to permit an administratively simplified method for tiny home development, and to set forth standards for tiny houses as a principal use on an individual lot or parcel.

Section 17.15.020 Number of Tiny Houses per Lot or Parcel

One tiny house shall be allowed as a principal use on an individual lot or parcel in the Large Lot Residential (LLR) and Residential Agricultural (RA) zone districts pursuant to Chapter 17.04 Zoning Districts of these regulations.

Section 17.15.030 Minimum Construction Standard

Tiny houses shall be constructed in accordance with the Pikes Peak Regional Building Code. Tiny homes may be constructed as 1.) Manufactured housing, or 2.) Site specific construction.

Section 17.15.040 Exterior Appearance Single family Character

A. All tiny houses shall be designed and constructed to:

1. Be finished on all sides with finished wood panel siding, vinyl siding, brick or stone veneer siding, stucco finish siding, other architecturally finished veneer, or with another type of siding with the same capability to withstand exposure to outdoor elements, as determined and approved by the Zoning Administrator.
2. Have no attached motor or other means of propulsion;
3. Have premanufactured insulted residential grade exterior doors;
4. Have premanufactured insulated residential grade windows; and
5. Have residential style/type roofing materials capable of providing long-term shelter from outdoor elements, for example shingles made from asphalt or terra cotta, metal, slate and concrete or clay tile.

B. Tiny houses shall have a minimum of four (4) of the following design features:

1. More than one type of exterior siding listed above in subsection A on a single side in an integrated manner;
2. Upgraded entry feature, such as transom or side windows around an exterior door;
3. Exterior accessories, such as permanent shutters, or fixed sunshade devices, or gutters/downspouts;
4. Pitched roofline (3:12 pitch or steeper);
5. Dormers;
6. Premanufactured skylights;

7. Built-in porch or deck;
8. Exterior residential light sconces or downcans; or
9. Other features as otherwise approved by the Zoning Administrator.

C. The provision of more than one (1) item within the same category of design features may be counted independently towards the overall minimum requirements (e.g., including both a sunshade and shutters).

D. If applicable, Tiny house wheels, running gear, and hitch components shall be:

1. Removed and the tiny houses set on a platform.
2. Screened from view with:
   a. Skirting of the same exterior siding and materials as the tiny house;
   b. Placement on a subsurface pad serving as a foundation and with integrated plantings and landscaping; or
   c. Another method approved by the Zoning Administrator.
3. Interior Storage of Water Prohibited. No interior water storage tank, unless otherwise approved as an integrated water system by the City of Fountain Water Superintendent in consultation with El Paso County Public Health shall be allowed within a tiny house.
4. Storage of Wastewater Prohibited. No interior storage of wastewater, unless approved by the wastewater district in consultation with El Paso County Health, shall be allowed within a tiny house.
5. Proof of Utilities. Proof of electric, natural gas, and/or propane availability is required. Proof of water and wastewater service is required unless otherwise approved by the Zoning Administrator pursuant to subsection 4 and 5 above. Electrical, natural gas, propane, water, and wastewater connections must meet the requirements of the City, utility provider and/or El Paso County Public Health, as appropriate. Individual wells and on-site wastewater treatment systems (OWTS) shall be permitted in accordance with state and local regulations.
6. Tiny House Site Plan Review Required. A tiny house site plan application shall be filed with the City and approved by the Zoning Administrator prior to the placement of the tiny house on an individual lot or parcel. Tiny house site plan applications shall at a minimum, consist of the following:
   a. Elevation drawings of the tiny house to include the method of screening/skirting and identification of the type of siding materials(s);
   b. Floorplan of the tiny house;
   c. Proof of utilities;
   d. Landscape plan with subsurface pad;
   e. Building elevations; and

f. Additional documentation as required by the Zoning Administrator that may be necessary, in his or her opinion, to evaluate compliance with this Chapter.

E. Accessory Structure Allowances. Accessory uses to a tiny house used as a principal use are limited to permitted residential accessory uses. Accessory structures exceeding the general allowance of two (2) times the size of the footprint of the tiny house may be approved by the Zoning Administrator in the context of the tiny home site plan review.

Chapter 17.16 Adult-Oriented Uses – Regulated

Section 17.16.010 Location Requirements

A. Adult-oriented uses shall be established, operated and maintained only within the Planned Industrial District and shall be separated from the most proximate and directly measured legally described property line of any residential zoning district, place of worship, park, child care facility, including daycares, and/or schools meeting the requirements of the compulsory education laws of the State, by not less than one thousand (1,000) feet, and other adult-oriented uses by not less than three hundred (300) feet.

B. Public streets, sidewalks, driveways, easements and other public rights of way shall be included in measuring the distances prescribed in this Chapter.

Section 17.16.020 Appeal Process

A. The Zoning Administrator shall deny an application for any building permit or other approval necessary for the location or operation of an adult-oriented business upon a finding of noncompliance with the standards and requirements of this Chapter. Within ten (10) business days of the submission of a complete written application for the approval of the location of an adult-oriented business under this Chapter, the Zoning Administrator shall in writing approve or deny the same, and send the same by certified mail, return receipt requested, to the mailing address indicated on the application. In the event of denial, the Zoning Administrator shall in writing set forth the basis of the denial.

B. Within ten (10) business days from the date of such written denial, the applicant may file with the City Clerk a notice of appeal (pursuant to Chapter 17.25) stating with particularity the basis of the appeal. A copy of such document shall be concurrently submitted to the office of the City Attorney. The appeal shall be processed in accordance with Chapter 17.25.

Section 17.16.030 Variance Procedures for Adult-Oriented Uses

A. Variance requests for adult-oriented uses shall be subject to the limitations of this Section and processes outlined in Chapter 17.25 Variances and Appeals.

B. The City Council may grant a variance upon a finding that, at the time of the filing of the request up until the public hearing, the location is available to the applicant for use as an adult-oriented business through acquisition by purchase or lease in a Planned Industrial Zoning District, as contemplated in this Section. For the purposes of this Chapter, the applicant shall have the burden of proof to establish through diligent inquire, the unavailability of suitable property in compliance

with the location requirements. Economic hardship incurred in locating and maintaining such use incompliance with the location requirements shall not constitute the basis of establishing unavailability under this Chapter.

C. Upon receipt of a request for a variance to locate closer than otherwise permitted to another adult-oriented use, the City Council shall schedule a public hearing in conformance with the procedures set forth in Section 17.20.080 of this Title for Public Notice.

D. If, based on the evidence presented at the hearing, the City Council finds that no location is available in a Planned Industrial Zoning District in compliance with the location requirements set forth in this Section, the City Council may grant a variance to the applicant:

1. To locate the adult-oriented use within three hundred (300) feet of an existing adult-oriented use; and/or
2. To locate in an otherwise appropriately commercially-zoned location specifically identified in the request.

E. No variance shall be available under this Section to locate an adult-oriented use closer than one thousand (1,000) feet to a residential use, place of worship, school including daycare, or park.

Chapter 17.17 Commercial Mobile Radio Service (CMRS)

Section 17.17.010 Purpose and Intent

A. The purpose and intent of this Chapter is to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community. These regulations are necessary in order to:

1. Facilitate the provision of wireless telecommunication services to the residents and businesses of the City.
2. Minimize adverse impacts of facilities through careful design, siting and screening standards.
3. Encourage and maximize collocation and the use of existing and approved towers, buildings, and other structures to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.
4. Provide specific regulations related to the review processes for CMRS facilities.
5. Align the review and approval process for CMRS facilities with the FCC and any other agency of the federal government with the authority to regulate CMRS facilities.

Section 17.17.020 Applicability

A. This Chapter applies to all CMRS facilities as defined herein. For purposes of this Chapter, CMRS service includes broadband service.

B. All CMRS facilities owned or operated by the City of Fountain or any agency or department thereof are exempt from all requirements of this Chapter.

C. Existing CMRS facilities on the date of adoption of this Chapter may continue to be operated and maintained despite the fact of their being non-conforming with respect to the requirements of this Chapter, provided, however, that such legally non-conforming CMRS facilities shall be subject to the requirements of Chapter 17.27 of the Fountain Municipal Code and this Chapter. To the extent such legally non-conforming CMRS facilities are proposed to be expanded or modified, such expansion or modification shall follow the procedures and limitations set forth in Chapter 17.27, unless the expansion or modification is an "Eligible Telecommunications Facilities Request," in which case the time limit of Section 17.17.090.D.1 shall apply.

D. To the extent CMRS facility applications were submitted for review prior to the adoption of this Chapter, the same shall be reviewed pursuant to the process and under the criteria set forth in the applicable portions of this Chapter in force prior to that date. The prior version of this Chapter is continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications the prior regulation shall be deemed repealed.

Section 17.17.030 Design Standards for All CMRS Facilities

A. Adequate Screening. All CMRS facilities shall be screened by use of color, texture, architectural features, landscaping and fencing.

B. Standards for Ground-Mounted Accessory Equipment. Ground-mounted accessory equipment and structures that are associated with a freestanding, roof-mounted or building-mounted CMRS facility are subject to the following requirements and shall be evaluated with the associated CMRS facility application.

1. Ground-mounted accessory equipment shall be subject to the accessory structure setback requirements, if any, in the underlying zone district. In the absence of such requirements, Section 17.07.050 applies.

2. Ground-mounted accessory equipment or buildings containing accessory equipment shall not exceed twelve (12) feet in height.

3. Ground-mounted accessory equipment not fully enclosed in a building shall be screened from all adjacent residential properties and public rights of way by landscaping, fences or architectural features, or by undergrounding.

4. Buildings containing ground-mounted accessory equipment shall be architecturally compatible with the existing structures on the property and the character of the neighborhood.

C. Safety Standards. All CMRS facilities shall conform to the requirements of the International Building Code, or National Electrical Code, as applicable.

D. Lighting. Signals, artificial lights, or illumination shall not be permitted on any antenna or tower unless required by the FCC. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance or visual impacts to the adjacent properties, while maintaining compliance with federal standards.

E. Signs. Excluding any warning signs as provided herein, signs shall not be allowed on any part of an antenna, tower, or antenna or tower site. For the purposes herein, signs shall include commercial

advertising, noncommercial signs, logos, political signs, flyers, flags, or banners. Any signs placed in violation of this subsection shall be removed immediately at the operator's expense. Notwithstanding any other provision of these regulations, warning signs listed below shall be utilized in connection with a tower or antenna site.

1. If high voltage is necessary to the operation of the tower or any accessory structures, "HIGH VOLTAGE – DANGER" warning signs shall be permanently attached to the fence or wall surrounding the structure.
2. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the structure.
3. The warning signs shall be installed at least five feet above the finished grade.

F. Collocation. The shared use of existing freestanding or roof-mounted CMRS facilities shall be preferred to the construction of new facilities in order to minimize adverse impacts associated with the proliferation of towers. The following collocation requirements apply:

1. No CMRS application shall be approved to construct a new freestanding or roof-mounted CMRS facility unless the applicant demonstrates to the reasonable satisfaction of the City that no existing CMRS facility within a reasonable distance, regardless of municipal boundaries, can accommodate the applicant's needs. Evidence submitted shall consist of one or more of the following:
   a. No existing CMRS facilities are located within the geographic area required to meet the applicant's coverage demands.
   b. Existing CMRS facilities or structures are not of sufficient height to meet the applicant's coverage demands and cannot be extended to such height.
   c. Existing CMRS facilities or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
   d. Existing CMRS facilities or structures do not have adequate space on which proposed equipment can be placed so it can function effectively and reasonably.
   e. The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing CMRS facility, or the antennas on the existing facility would cause interference with the applicant's proposed antenna.
   f. The applicant demonstrates that there are other compelling limiting factors, including but not limited to economic factors, that render existing CMRS facilities or structures unsuitable.

G. No CMRS facility owner or operator shall unreasonably exclude a telecommunication competitor from using the same facility or location. Upon request by the City, the owner or operator shall provide evidence and a written statement to explain why collocation is not possible at a particular facility or site.

H. If a telecommunication competitor attempts to collocate a CMRS facility on an existing or approved CMRS facility or location, and the parties cannot reach an agreement, the City may require a third-

party technical study to be completed at the applicant's expense to determine the feasibility of collocation.

I. Applications for new freestanding CMRS facilities shall provide evidence that the new facility can accommodate collocation of additional carriers.

Section 17.17.040 Design Standards for Freestanding CMRS Facilities

A. Stealth design, as described in herein, is required for all freestanding CMRS facilities. Such facilities shall be subject to architectural review under Section 17.13.040.

B. Height. All freestanding CMRS facilities shall be no taller than the height limit in the relevant zone district, or thirty-five (35) feet, whichever is less.

C. Setback:

1. Freestanding CMRS facilities shall comply with the side and rear yard setback requirements for principal structures of the zone districts in which they are located, or the setback shall be twenty percent (20%) of the height of the antenna support structure and associated equipment, whichever is greater.

2. The front yard setback from property lines for freestanding CMRS facilities adjacent to public or private streets shall be a distance equal to the height of the freestanding facility or twenty percent (20%) of the height of the antenna support structure and associated equipment, whichever is greater.

D. Spacing. All freestanding CMRS facilities shall be located at least one thousand (1,000) feet from any other CMRS facility, measured in a straight line between the base of the tower structures.

E. Landscaping and Screening. Because stealth design, as described in Section 17.17.110, is required for all freestanding CMRS facilities, and because all other ground-mounted accessory equipment associated with such facilities must be adequately screened pursuant to this Chapter, no aspect of a freestanding CMRS facility shall be immediately visible as such to the public or from adjacent properties. The City encourages, but does not require, ground-mounted accessory equipment or structures required in support of a (mandatory) stealth designed freestanding CMRS facility to be fully incorporated into the freestanding stealth antenna facility itself, but only that all such accessory equipment be adequately screened pursuant to the same standards applicable to ground-mounted facilities under this Chapter. All landscaping shall be properly maintained at the operator's expense to ensure good health and viability.

F. Security Fencing. Towers shall be enclosed by security fencing which measures not less than six (6) feet in height, and shall be equipped with an appropriate anti-climbing device or devices.

Section 17.17.050 Design Standards for Building-Mounted CMRS Facilities

All building-mounted CMRS facilities must match the color and texture of the building to which they are attached, and may protrude no higher than the parapet wall or the top of the building if no parapet wall is present. A wall antenna may not protrude more than two feet from the building wall.

Section 17.17.060 Design Standards for Roof-Mounted CMRS Facilities

A. All roof-mounted CMRS facilities must match the color and texture of the building to which they are attached.

B. All roof-mounted CMRS facilities shall be screened, designed, and/or colored to be architecturally compatible with the building upon which they are mounted. Such color, design and screening is encouraged to mimic the techniques used to screen, color and design other rooftop equipment. All roof-mounted CMRS facilities are limited in height to ten (10) feet, including the antennae. In no case shall the total height of the antenna and the building exceed the maximum building height in the relevant zone district.

Section 17.17.070 Permitted Locations for CMRS Facilities

This Section describes the locations within which various kinds of CMRS facilities, as defined herein and in Section 17.17.110, may be located.

A. Residential districts: Building and roof mount on multifamily residential and nonresidential buildings only.

B. Commercial districts: Building and roof mount and freestanding (stealth only).

C. Residential Mixed Use (RMU) districts: Building and roof mount on nonresidential buildings only.

D. Commercial Mixed Use (CMU) districts: Building, roof mount, and freestanding (stealth only).

E. Industrial districts: Building and roof mount and freestanding (stealth only).

F. PUD: Permitted only if in the approved PUD list of uses and locations; subject to additional requirements and restrictions in the approved PUD, which may be more stringent, but not less stringent than this Chapter.

G. City rights of way: Small cell CMRS facilities permitted under this Chapter.

Section 17.17.080 Small Cell Facilities and Networks

A. Applicable Requirements. Small cell facilities and small cell networks, as defined at Section 17.17.110, shall comply in all respects with the requirements of this Chapter applicable to all CMRS facilities, with the following exceptions:

   1. Setback requirements;

   2. Design requirements; and

   3. Ground–mounted accessory equipment in rights of way shall be located below ground level.

B. Location. Small cell facilities are permitted in City rights of way, upon City facilities in these rights of way and CDOT rights of way under the following priority:

   1. First, on a City-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the City.

2. Second, on a City-owned utility pole with attachment of the small cell facilities in a configuration approved by the City.
3. Third, on a third-party owned utility pole, with the consent of the owner thereof, with attachment of the small cell facilities in a configuration approved by the City.
4. Fourth, on a traffic signal pole or mast arm in a configuration approved by the City, or in the case of a CDOT facility, by CDOT.
5. Fifth, on a freestanding or ground-mounted facility which meets stealth requirements in a location and configuration approved by the City.

C. Height. All small cell facilities shall not exceed five (5) feet above the light pole, traffic signal or other facility or structure to which they are attached, or the maximum height in the relevant zone district, whichever is less.

D. Safety and Design. Small cell facilities in the right of way shall be designed and located, in the reasonable judgment of the reviewing official or body, so as to not interfere with the safe movement of pedestrians and motor vehicles, or otherwise create a safety risk to the public. Small cell facilities shall be designed to blend with and be camouflaged in relation to the structure upon which they are located (e.g.: painted to match the structure).

E. Spacing. Small cell facilities shall not be located within six-hundred (600) feet of any other small cell facility. This restriction does not apply to spacing from CMRS facilities in existence on the effective date of this Chapter.

F. Permitting. Small cell facilities and networks shall make application for location through a revocable permitting system maintained by the City, rather than as conditional use permit. The City may accept applications for a small cell network consisting of applications for up to ten (10) small cell locations, provided each small cell facility shall be separately reviewed.

G. Indemnification. The operator of a small cell facility which is permitted to locate on a City right of way or easement or on a City-owned utility pole, traffic signal or other structure owned by the City, shall as a condition of permit approval, indemnify the City from and against all liability and claims arising as a result of that location or attachment, including repair and replacement of damaged poles and equipment, in a form approved by the City Attorney.

H. Bonding. All permits for location of small facilities on real property or facilities not owned by the small cell permittee shall include as a condition of approval a bond, in form approved by the City Attorney, to guarantee payment for any damages to the real property or facilities and removal of the small cell facility upon abandonment.

I. Relocation and Removal. All small cell facilities in City rights of way or easements shall be removed and/or relocated at the applicant's expense in the event the City's use of the right of way or easement precludes the continued presence of such facilities.

J. Proprietary Facilities. Location on City electric facilities will require execution of a Fountain Electric Department Pole Attachment Agreement.

Section 17.17.090 Review Procedures

A. All building and roof-mounted CMRS facilities and small cell facilities and networks, and modifications to an existing facility not a substantial change as defined at Section 17.17.110, shall be reviewed administratively.

B. Applications for modifications to an existing facility which are not a "substantial change" and are "eligible facilities requests," shall provide all information reasonably required by the City to determine whether the request meets the requirements for being an eligible facility request that is not a "substantial change" in the physical dimensions of the support structure, as those terms are defined herein. All other applications for all other building or roof-mounted facilities, or to place additional antennas on existing freestanding facilities, shall provide the information required on the City's development plan application form, as well as the following:

1. A project statement identifying the proposed CMRS facility and the telecommunication service to be provided by the proposed facility.
2. An indication as to whether the facility is designed to accommodate the equipment of additional carriers.
3. A statement from the building/property owner indicating that they consent to the placement of the CMRS facility on the site and information which indicates that the lease does not preclude collocation.
4. A photo simulation which illustrates "before" and "after" what the building and/or site will look like once the antennas and associated ground-mounted facilities equipment have been installed. The photos should be taken from the adjoining public street and from any adjacent residential zoning from which the antennas and equipment will be visible.
5. Elevation drawings for each side of the building upon which the wall or roof- mounted equipment will be visible, as well as any ground-mounted equipment. The drawings should indicate the appearance, color and material of the existing building as well as the location, height, color and material proposed for the antennas and associated equipment.
6. A rooftop plan, which indicates the location and height for any roof-mounted antennas or equipment.
7. A site plan shall be required if the proposal includes ground-mounted equipment. The plan shall illustrate all existing freestanding facilities, buildings, parking, easements and landscaping existing on the site as well as any proposed CMRS facilities, setbacks, landscaping, screening or security fencing.

C. Freestanding CMRS Facilities - Conditional Use Permit Required.

1. Applications for freestanding CMRS facilities shall be reviewed by the Planning Commission and City Council as conditional uses pursuant to the procedure and review criteria in Chapter 17.26, as well as the review criteria of this Chapter.
2. Applications for stealth freestanding facilities shall provide the information required on the City's development plan application form, as well as the following:

a. A project statement identifying the proposed CMRS facility and the telecommunication service to be provided by the proposed facility.

b. An indication as to whether the facility is designed to accommodate the equipment of additional carriers. Each application for a CMRS facility shall be accompanied by a statement from the building/property owner indicating that they consent to the placement of the CMRS facility on the site and information which indicates that the lease does not preclude collocation.

c. If a new freestanding facility is proposed, evidence that the carrier has reasonably explored the use of wall or roof or stealth facilities within the search area and determined that said facilities are not feasible or appropriate and justification of the need for the proposed tower and height requested.

d. A photo simulation, which illustrates "before" and "after" what the site will look like once the freestanding CMRS facility and ground-mounted equipment have been constructed. The photos should be taken from the adjoining public street and from any adjacent residential zoning from which the freestanding facility will be visible.

e. Elevation drawings shall include the freestanding facility, as well as any ground-mounted equipment. The drawings should indicate the appearance, height, color and material proposed for the freestanding facility, antennas and associated equipment.

f. The legal description of the subject property, which shall be required to be a platted lot in accord with the Subdivision Codes.

D. A site development plan shall be required for all freestanding facilities. The plan shall illustrate all existing buildings, parking, easements and landscaping existing on the site as well as any proposed CMRS facility locations, landscaping, screening or security fencing.

E. Review and Response deadlines. In compliance with federal law and regulations, the City shall review and act upon all applications within the following time periods:

1. Within thirty (30) days the City will give written notice of incompleteness, specifying the code Section that requires the information. This halts the remaining deadlines until a complete application is filed.

2. Should the Applicant fail to respond to the City's notice of incompleteness within 60 days of notification, then the Applicant shall be deemed to have cancelled the Application.

3. Within sixty (60) days the City will act on applications that are not a "substantial change" (an Eligible Telecommunications Facilities Request).

4. In the event the City fails to act on an application seeking approval for an Eligible Telecommunications Facilities Request under this Section within the timeframe for review, the application shall be deemed approved. The deemed approval becomes effective when the Applicant notifies the City in writing after the review period has expired that the application has been deemed approved.

5. Within ninety (90) days the City will act on collocation applications that are not a substantial change in the size of a tower, or location or collocation applications for a small cell facility or small cell network, or replacement or modification of the same.

6. Within one hundred-fifty (150) days the City will act on applications for new CMRS facilities, collocation applications that are a substantial increase in the size of the tower or substantial increase an existing CMRS facility that are not a small cell facility or small cell network.

F. Third Party Review of Conditional Use Applications.

1. CMRS service providers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of personal wireless services, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless services provider. The City may require such a technical review to be paid for by the applicant for the CMRS facility. The selection of the third party expert may be by mutual agreement between the applicant and the City or at the discretion of the City, with a provision for the applicant and interested parties to comment on the proposed expert and review their qualifications. The expert review is intended to be a site-specific review of technical aspects of the CMRS facility and not a subjective review of the site selection. The expert review of the technical submission shall address the following:

   a. The accuracy and completeness of the submission;

   b. The applicability of analysis techniques and methodologies;

   c. The validity of conclusions reached;

   d. Any specific technical issues designated by the City.

2. Based on the results of the third party review, the City may require changes to the application that comply with the recommendations of the expert.

G. Review Criteria. The reviewing official or body as appropriate, shall apply the design and location standards contained in Sections 17.17.030 through 17.17.080, as appropriate in its review and decision on the application.

H. Permit Responsiveness. Applicant has ninety (90) days in which to review and formally respond to review comments. Such review should be made in the form of a letter to the reviewing agency clarifying any findings of the review, or should be a revision of the original submittal addressing the review comments of the reviewing official or body. Failure to respond in 90 days to review comments shall be considered an abandonment of the application by the Applicant. Future applications covering the same or materially similar geography shall be considered as a new application.

I. Permit Expiration. A permit for a CMRS facility, including a small cell facility, shall expire nine (9) months after approval unless construction of the permitted facility has been initiated.

Section 17.17.100 Discontinuance and Abandonment

All CMRS providers shall notify the City when they place the FCC on notice, via the filing of FCC form 489, that a specific CMRS facility is being discontinued. Antennas and support structures, which are not in use for six (6) months for CMRS purposes, shall be removed by the CMRS facility owner. This removal shall occur within sixty (60) days of the end of the six (6) month period. Upon removal, the site shall be restored to blend with the surrounding environment. If an abandoned facility is not removed within the required time frame the City shall remove the facility and bill the property owner upon which the facility is located for the cost incurred for the removal. In the event the property owner fails, within thirty (30) days after billing, to pay for the cost and expenses of removal the City may assess a lien against the property for such costs which may be certified to the County Treasurer for collection in the same manner as real property taxes under CRS 31-20-105 and 106. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes.

Section 17.17.110 Definitions Specific to CMRS

A. Antenna. Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations. Exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

B. Base Station. A station at a fixed location, other than a freestanding CMRS facility, that enables wireless communication between user equipment and a communications network, including any associated equipment such as, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. It includes a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station. It may encompass such equipment in any technological configuration, including distributed antenna systems and small cells.

C. Broadband Service. Broadband is wide bandwidth data transmission which transports multiple signals and traffic types. The medium can be coaxial cable, optical fiber, radio or twisted pair. In the context of Internet access, broadband is used to mean any high-speed Internet access that is always on and faster than traditional dial-up access.

D. Building or Structure-Mounted Commercial Mobile Radio Service (CMRS) Facility. A CMRS facility in which antenna are mounted to an existing structure (e.g., water tower, light pole, steeple, etc.) or building face, but excluding roof-mounted facilities.

E. CDOT. Colorado Department of Transportation.

F. Commercial Mobile Radio Service (CMRS) Accessory Equipment. Equipment, including unmanned cabinets, used to protect and enable operation of radio switching equipment, back-up power and other devices, but not including antenna, that is necessary for the operation of a CMRS facility.

G. CMRS Facility. An unmanned building or structure consisting of equipment for the reception, switching and transmission of wireless telecommunications, including, but not limited to, personal communications service (PCS), enhanced specialized mobile radio (ESMR), paging, cellular telephone and similar technologies.

H. Eligible Telecommunications Facilities Request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and that involves the collocation of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

I. FCC. Federal Communications Commission.

J. Freestanding CMRS Facility. A CMRS facility that consists of a stand-alone support facility or tower (monopole and/or lattice structure), antennae, and associated equipment.

K. Ground-Mounted CMRS Accessory Equipment. Equipment, including unmanned cabinets, located on or beneath the ground, used to protect and enable operation of radio switching equipment, back-up power and other devices, but not including antenna, that is necessary for the operation of a CMRS facility including base stations.

L. Height. The distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna or other equipment.

M. Roof-Mounted Commercial Mobile Radio Service (CMRS) Facility. A CMRS facility in which antenna are mounted on an existing building roof.

N. Small cell facility means a wireless service facility that meets both of the following qualifications:

1. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and

2. Primary equipment enclosures are not larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

O. Small Cell Network. A collection of interrelated small cell facilities designed to deliver wireless service.

P. Stealth Freestanding Facilities. Any freestanding CMRS facility which is designed to blend and camouflage the antennas and associated equipment. For example, architecturally screened roof-mounted antennae, building-mounted antennas painted to match the existing structure, and antennas integrated into architectural elements by bell towers, flagpoles, parking lot light poles, clock towers, decorative architectural features, tree towers, City utility poles, etc.

Q. Substantial Change. A modification which substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria, including a single change or a

series of changes over time whether made by a single owner or operator or different owners/operators over time, when viewed against the initial approval for the support structure:

1. For towers other than towers in the public rights of way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;
    a. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the federal Spectrum Act, effective February 22, 2012.
2. For towers other than towers in the public rights of way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights of way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the original siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1 through 6 of this definition.

R. Tower. Any freestanding structure designed and constructed primarily for the purpose of supporting one (1) or more Federal Communications Commission-licensed or authorized antennae, including self-supporting lattice towers, guy towers and monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and other similar structures. The term also includes any antenna or antenna array attached to the tower structure.

S. Tower Height (average). When referring to a tower or other structure, the distance measured from the average ground level to the highest point on the towner or other structure, even if said highest point is an antenna.

Chapter 17.18 Animal Raising and Keeping

Section 17.18.010 General Provisions

A. Location Requirements. The housing, keeping, or sheltering of any animal or livestock, excluding household pets, chicken hens, emotional support animals and service animals, shall only be allowed in the LLR, RA, POS, and PUD Zoning Districts. Animals shall be limited to domestic livestock, farm animals and barnyard fowl as listed below. Other similar animals may be allowed, however, the Zoning Administrator shall designate an animal unit ratio for similar animals using the Stockman's Handbook or similar reliable source.

B. Purpose. It is the purpose of these regulations to limit under specific circumstances the number of animals allowed and the methods by which animals are kept on private property. It is the intent of this Chapter to minimize potential adverse impacts on adjoining properties, the neighborhood and persons in the vicinity from improper management of such animals. Such adverse impacts include, but are not limited to the propagation of flies and other disease vectors, dust, noise, offensive odors, drainage, soil erosion and sedimentation.

Section 17.18.020 Specific Animal Standards

A. Application of Standards. The following requirements shall apply to the keeping or raising of specific types of animals, in addition to all other applicable standards of this Chapter. More than one (1) type of animal may be kept on a single lot, subject to the provisions of this Chapter. Where this Chapter limits the number of animals allowed on such a lot, such limitations shall not apply to offspring that are not weaned.

B. Number of Animals. Domestic livestock and farm animals limited to swine, sheep, cattle, horses, mules, goats, rabbits and barnyard fowl are allowed at a maximum animal density according to the following chart of animal units. Animal unit is a common animal denominator based on feed consumption.

1. Animal Units. The following schedule lists animal units by type of domestic livestock and farm animals. When any animal unit calculation results in a fraction, fractional values less than 1/2 (0.5) shall be rounded down to the nearest whole number and fractional values 1/2 (0.5) and greater shall be rounded up to the next whole number.

Table 17.18.1 Animal Units

Type of Livestock	Animal Unit
Cattle	
1 cow or bull over 2 years old	*1.0*
1 weaned calf, yearling, young cow	*0.7*
Horses/Mules	
1 horse, mature	*1.3*

Type of Livestock	Animal Unit
1 yearling	*1.0*
1 weaning colt or filly	*0.75*
2 ponies	*1.0*
1 mule	*1.0*
1 miniature	*0.25*
Llamas	*0.30*
Sheep	
5 mature ewes or rams	*1.0*
5 yearling	*0.8*
5 weaned lambs to yearlings	*0.6*
***Goats** – 7 goats*	*1.0*
Swine	
1 Sow or boar	*0.5*
1Pig to 200 lbs.	*0.2*
***Rabbits**- 56 rabbits* *subject to issuances of a conditional use*	*1.0*
Barnyard Fowl	
*55 chicken hens** 1-10 Chicken hens requires a permit *** Cock Birds shall not exceed two per animal unit and are included in the total number of chickens allowed**	*1.0*
55 Ducks	*1.0*
32 Geese or 32 Turkeys	*1.0*
330 (6 Quail = 1 chicken)	*1.0*

2. Minimum Area Standards. Domestic livestock, farm animals, and barnyard fowl, shall be permitted, temporary or permanent on lots of at least one (1) acre in size according to the following minimum area standards, except that offspring of animals may be kept until weaned.
3. Non-irrigated land - one (1) animal unit per acre, except that two (2) horses are allowed for the first acre with one animal unit per acre thereafter.
4. Irrigated land planted in wheat, barley, oats, vetch, alfalfa, clovers, or similar adapted grasses and legumes for pasture lands - two (2) animal units per acre except that two (2) horses are allowed for the first acre with two animal units per acre thereafter.
5. Exemption: The keeping of chicken hens shall be allowed as regulated below.

C. Standards.

1. All domestic livestock, farm animals and barnyard fowl shall be kept in a fenced area.
2. All buildings, sheds, stables, riding rings, corrals, chinchilla hutches, or other similar enclosures and fenced areas wherein animals are kept shall be setback a minimum of fifty (50) feet from any property line.

3. When a property is zoned LLR or RA and abuts a street right of way or another property that is zoned LLR, RA or POS, the property boundary fence wherein animals are allowed to roam shall not be subject to the fifty (50) foot setback requirement.
4. When a property is zoned LLR or RA and abuts an undeveloped parcel, open space or park, the property boundary fence wherein animals are allowed to roam shall not be subject to the fifty (50) foot setback. If the abutting undeveloped property is developed, the fifty (50)-foot setback shall be required for any existing or new fenced areas wherein animals are kept.
5. Chicken enclosures shall be subject to the setback standards listed below Subsection E below.
6. Premises upon which animals are kept shall be maintained in such a condition as not to be foul, hazardous or detrimental to the health, safety or welfare of humans or animals. Manure shall not be allowed to accumulate so as to create a nuisance condition, or to cause a hazard to the health, welfare or safety of humans or animals. The outside storage of manure shall be setback a minimum of twenty-five (25) feet from the property line and shall not exceed five (5) feet in height.
7. No direct water run-off shall be allowed onto adjacent properties. Drainage facilities and erosion control measures shall be established on-site to protect adjacent properties from run off containing contaminants or organic waste.
8. Violations of this Chapter shall be subject to enforcement procedures as set forth in Chapter 17.02 of these regulations and nuisance abatement as set forth in Chapter 8.12 of these regulations.

D. Beehives.

1. Colonies of bees shall be maintained in moveable frame hives, constructed to meet the specifications for beehives set by the American Beekeepers Federation.
2. The name and telephone number of the beekeeper shall be branded, painted, or otherwise clearly marked on the structure of at least two (2) hives and placed at opposite ends of the hive. Instead of marking the hives, the beekeeper may conspicuously post a private notification sign setting forth the name and telephone number of the beekeeper, in accordance with Chapter 17.12.
    a. Hives shall be properly shaded from adjacent night lighting on adjoining properties.
    b. Hives shall not be located within twenty-five (25) feet of any property line, public street, sidewalk, or alley.
    c. Adequate space must be provided in each hive to prevent overcrowding and swarming.
    d. Colonies must be re-queened following any swarming or aggressive behavior.
    e. Abandoned colonies, diseased bees, or bees living in trees, buildings, or any other space except in movable frame hives are considered a public nuisance and shall be subject to abatement set forth in Chapter 17.16 of these regulations and nuisance abatement as set forth in Chapter 8.12 of these regulations.

f. The keeping of bees shall restricted to residential zoned lots of one (1) acre or more.

g. Eight (8) hives shall be permitted on residential lots from one (1) acre to less than two and one half (2-1/2) acres.

h. Twenty-five (25) hives shall be permitted on residential lots from two and one half (2-1/2) to five (5) acres.

i. The number of beehives is not limited on residential lots of five (5) or more acres.

E. Chicken Hens. A City chicken permit is required for the keeping of chickens. No more than one chicken permit per household shall be issued by the Zoning Administrator. An approved chicken permit may not be transferred to any other person or any other property or building and shall be valid as long as the conditions and requirements for which the permit is granted are upheld by the permit holder. The permit may be revoked for any violation of this Section or other applicable regulations of the Fountain Municipal Code. The owner must comply with the Colorado Parks and Wildlife and Colorado Department of Public Health and Environment regulations.

1. Permitted Areas. The keeping of chicken hens shall be allowed in the following specific land areas within the City subject to the chicken hen keeping restrictions stated below.

a. Chicken hens shall be permitted on single family detached residential lots (a lot with a single family dwelling), two-family (a lot with a two-family or duplex attached dwelling) townhome (a multifamily attached dwelling with individually platted lots) and mobile home lots located in a platted mobile home subdivision where the primary use of said lot is residential and subject to the submittal of property owner authorization.

b. Chicken hens shall be allowed in common areas such as community gardens, public and private parks, multifamily developments (including townhome and condominium), mobile home parks, and common open space areas subject to the submittal of property owner authorization and the issuance of a conditional use permit as outlined in Chapter 17.26.

2. Number of Chickens.

a. Single family, two-family, townhome and mobile home residential lots 2,500 square feet or greater in area shall be allowed to keep chicken hens. One chicken hen per 1,000 square feet of gross lot area shall be allowed, up to a maximum of ten (10) chicken hens. Residential and agricultural lots in the LLR and RA zone districts shall be allowed more chickens based on the animal unit calculations as specified in Table 17.18.1 Animal Units and subject to the approval of a conditional use in Chapter 17.26.

i. Common areas must consist of contiguous area of a minimum of 2,500 square feet and shall be allowed a maximum twenty (20) chicken hens. Additional chicken hens shall be allowed if approved as a condition to the conditional use. The maximum number of chickens approved in the conditional use shall not exceed the maximum animal units allowed in Table 17.18.1 Animal Units.

ii. If the calculation of chicken hens results in a fractional number, that number shall be rounded down to the nearest whole number (e.g. 2.1 through 2.9 chicken hens shall round down to two (2) chicken hens.

3. Location restrictions. The keeping of chicken hens shall be restricted to the rear or backyard of any residential lot in all zoning districts except RA, LLR and POS. This shall apply to chicken coops, runs and free ranging activities. Where a common area is not located in a rear backyard, screening and fencing shall be required.

4. Chicken Coops Required. All property owners approved for the keeping of chicken hens shall provide chicken coops on their lots. Chicken coops and runs shall meet the following minimum requirements:

   a. Located in the rear yard or back yard of the lot with the exception of coops located in the RA, LLR and POS Zone Districts.

   b. Set back a minimum of five (5) feet from any property line or any other structure.

   c. Be predator-proof with a solid top.

   d. Minimum of four (4) square feet per chicken.

   e. Maximum of one hundred twenty (120) square feet in area per chicken coop and per lot or parcel. The maximum square footage requirement may be increased for coops located in a common area if approved in the conditional use.

   f. Maximum height of six (6) feet. The maximum height for a chicken coop in the Large Lot Agricultural/Residential (LLR) and Residential Agricultural (RA) Districts shall not exceed twelve (12) feet.

5. Free Range Grazing. Chickens may free range in the rear yard or back yard of the property only if under direct supervision and only if the entire rear yard of the property is enclosed with a solid fence. Free range is not permitted in approved common areas as defined above.

6. No outside slaughtering or display of slaughtered chickens shall be allowed.

7. Chicken feed must be properly stored so as not to attract mice, rats and other vermin.

8. A maximum of ten (10) chicken hens shall be allowed for an agricultural business, excluding Animal Feeding Operations (AFO), located in a commercial or agricultural zone district. Chicken hens shall be kept in a chicken coop or the interior of a structure located on the premises.

9. Containment shall be required for more than one hundred (100) chicken hens in the Large Lot Agricultural/Residential (LLR) District and Residential Agricultural (RA) District.

F. Service Animals. The keeping of an ADA Service Animal is permitted in every residential zone district provided: 1) that the animal is required because of a qualifying disability; and 2) what work or task(s) the animal has been trained to perform service-related work or tasks associated with the qualifying disability.

G. Emotional Support Animals. The keeping of an Emotional Support Animal is permitted in every residential zone district provided the owner has obtained a letter from a licensed medical or mental health professional, describing the emotional support animal's status.

Chapter 17.19 Home-Based Businesses

Section 17.19.010 Purpose and Intent

A. The intent of allowing home-based businesses is to:

1. Maintain and preserve the character of residential neighborhoods;
2. Ensure the compatibility of home-based businesses with other uses permitted in the residential districts;
3. Promote the efficient use of public services and facilities while assuring that commercial users do not reduce the City's public services and facilities level of service to intended residential users;
4. To help provide homeowners with additional economic means for maintaining permanent residency;
5. Encourage flexibility in the work place and creativity in careers by permitting home-based businesses; and
6. Regulate home-based businesses because of the potential impact to the surrounding neighborhood.
7. Typical characteristics include:
   a. Client/customer visitation that may be more frequent than typical residential traffic, but less frequent than traditional commercial business traffic.
   b. Deliveries in excess of regular postal service and/or occasional express parcel service.
   c. Instruction/teaching associated with any permitted home-based business.
   d. Phone/computer use only (without client/customer visitation) associated with any permitted home-based business.

Section 17.19.020 Permitted Home-Based Businesses:

Table 17.19.1 Permitted Home-Based Businesses

(P = Permitted, C = Conditional Use, -- = Not Permitted)

Use	LLR	RA	R1	All Mixed Use Zones	MF	MHS
Architect	P	P	P	P	--	--
Artists: Arts and Crafts; Ceramics and Sculpting	P	P	P	P	--	--
Attorney	P	P	P	P	--	--
Barbershop/ Beauty Parlor	P	P	P	P	--	--
Carpenter	P	P	P	P	--	--

Use	LLR	RA	R1	All Mixed Use Zones	MF	MHS
Cottage Food Producer	P	P	--	--	--	--
Chiropractor	P	P	P	P	--	--
Small Group Home	P	P	P	P	P	P
Dog Grooming	P	P	P	P	--	--
Dressmaker, Seamstress, Tailor	P	P	P	P	--	--
Engineer	P	P	P	P	--	--
Insurance Agent	P	P	P	P	--	--
Animal Breeding	P	P	--	--	--	--
Massage Therapist	P	P	P	P	--	--
Music Teacher	P	P	P	P	--	--
Photographer (Not Production Studio)	P	P	P	P	--	--
Physician	P	P	P	P	--	--
Physical Fitness Instruction (Martial Arts, Aerobics, Pilates, Yoga, etc.)	P	P	P	--	--	--
Home-Based Daycare	P	P	P	P	--	P
Psychologist	P	P	P	P	--	--
Radio, Television, and Small Appliance Repair	P	P	P	P	--	--
Real Estate Agent	P	P	P	P	--	--
Riding Lessons (not including Commercial Boarding)	P	P	--	--	--	--
Veterinarian	P	P	--	--	--	--
Any permitted home-based business use where customers do not visit the residence (home office only)	P	P	P	P	P	P
Unclassified Home-based businesses	C	C	C	C	C	--

*PUD zoned parcels, the governing master plan or Overall Development Plan will be used to determine if and what home-based businesses are allowed. Where not explicitly prohibited, home-based businesses are allowed in the PUD zone as described by this Title and the regulations herein do not annul or supersede any private agreements, such as restrictive covenants, over the subject property.

Section 17.19.030 Home-Based Businesses Not Permitted

A. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home-based businesses; are otherwise incompatible with residential areas; or impair the use and value of a residentially zoned area for residential purposes. Therefore, the uses listed below shall not be permitted as home-based businesses:

1. Repair, building, or servicing of vehicles or boats;
2. Antique shop or gift shop;
3. Painting of vehicles, trailers or boats;
4. Large appliance repair including stoves, refrigerators, washers and dryers;

5. Machine and sheet metal shops;
6. Small machine repair; and
7. Uses which may include hazardous chemicals or other items which may potentially be hazardous to the surrounding area.

Section 17.19.040 Standards for Home-Based Businesses

A. All Home Businesses. All home-based businesses shall comply with the following requirements:

1. Occupy less than thirty-five percent (35%) of the gross floor area of the principal use, except for home-based daycares, which may occupy up as much of the residence as required by the Colorado Department of Human Services.
2. The business owner or operator must reside and maintain primary residency within the principal single family dwelling unit on the lot.
3. Conducted primarily by family members residing in the dwelling.
4. The business is conducted in a manner that will not alter the normal residential character of the premises. To ensure the foregoing, the following limitations apply:
   a. No alterations to the dwelling by the use of color, materials, lighting, or the emission of noise, vibration, dust, glare, heat, smoke or odors.
   b. No exterior indication of nonresidential activity except for parking or signage as allowed by these regulations.
   c. No use of any yard space or activity outside of the building that is not normally associated with residential use. Parking would only be allowed on a parking pad, driveway, under a carport or in a garage. Home-businesses allowing customer parking in their front yard and not within an area otherwise reserved for parking would not be allowed.
   d. Refuse/recycling location and container sizing for the single family home shall continue according to the residential requirements.
   e. No use of electrical equipment that exceeds typical standards for residential use and does not require the use of electrical or mechanical equipment that would change the fire rating of the structure.
   f. No increase of water or sewer use where the combined total use for the dwelling and home-based business is significantly more water or sewer use than the average for residences in the neighborhood.
5. Such use shall not create traffic congestion, parking scarcity, noise or any other nuisance or hazard in the neighborhood.
6. Not generate more than twenty (20) vehicular trips a day except that home-based day cares may have up to four (4) trips per allowed child, calculated using the maximum number of allowed children on-site pursuant to the day care's Colorado Department of Human Services license. As used here, a trip is considered either the arrival or the departure of a vehicle from

the household. For example, one (1) vehicle making a delivery and then leaving immediately would be considered two (2) trips.

7. Only receive delivery of supplies between the hours of 8:00 a.m. and 6:00 p.m. Agricultural activities are exempt from this requirement.
8. No person shall carry on a home-based business, or permit such use to occur on property which he/she owns or is in lawful control, without first obtaining a Business License.
9. Be open to inspection and review at all reasonable times by an authorized City official for purposes of verifying compliance with the approval criteria and other Code provisions.
10. Home-Based Daycares. In addition to the standards for all home-based businesses, home-based daycares shall comply with the following:
    a. A maximum of six (6) children may be served at any one time.
    b. Obtain necessary licensing and follow any requirements for home-based daycares as required by the Colorado Department of Human Services.
11. Cottage Food Producers. In addition to the standards for all home-based businesses, cottage food producers shall:
    a. Comply with the Colorado Cottage Food Act, C.R.S. § 25-4-1614, as existing or as hereafter amended.

Section 17.19.050 Elimination of Home-Based Business

If a home-based business is not being conducted according to the approval criteria, or the use has allegedly become detrimental to the residential neighborhood, the City may institute revocation or suspension proceedings against the home-based business' City Business License in accordance with the process set forth in Title 5 Business Tax, Licenses and Regulations of these regulations.

Section 17.19.060 Exceptions

A. The following activities, which do not exceed three (3) days in duration or do not operate for more than nine (9) days in any one (1) calendar year, shall be exempt from the requirements of this Section:
    1. Garage and Yard Sales. To qualify for this exemption, all garage and yard sales must involve only the sale of household goods, none of which were purchased for the purpose of resale;
    2. Parties for the display of domestic products;
    3. Other similar short-term uses or sales, such as bake sales and lemonade stands.

ARTICLE V: ADMINISTRATION AND PROCEDURES

Chapter 17.20 Administration

Section 17.20.010 Purpose and Intent

A. It is the intent and purpose of this article to provide for the efficient, reasonable, and impartial enforcement of Title 17. This article establishes and prescribes the basic duties and operating procedures of the administrative individuals responsible for administering and enforcing this Title and establishes the requirements development applications and building permit applications with regard to the following:

1. Administration;
2. Certificates of Occupancy;
3. Plot Plans for Single family and Two-family Homes;
4. Planned Unit Developments;
5. Site Development Plans (Preliminary and Final);
6. Residential Cluster Development;
7. Conditional Use;
8. Impact Assessment Report;
9. Rezoning Procedures and Amendments to the Zoning Ordinance;
10. Variances and Appeal;
11. Non-conforming Uses, Structures and Lots, and Parking Specifications; and
12. Notice of Public Hearings.

Section 17.20.020 Zoning Administrator

A. The Zoning Administrator shall be appointed by the City Manager and shall be charged with the responsibility for interpretation of and enforcement of this Title. Interpretation of this Title includes but is not limited to, clarification of intention, classification of land uses not specified in this Title, clarification of zoning district boundaries, and delegation of procedure.

B. No oversight or dereliction or error on the part of the Zoning Administrator or on the part of any other official or employee of the City of Fountain shall legalize, authorize, or excuse the violation of any provisions of this Title.

C. Right of Entry. The Zoning Administrator shall have the right to enter any premises or structures at any reasonable time for making an inspection as may be necessary to carry out his duties in the enforcement of this Title.

Section 17.20.030 Building Official

The Building Official, as described in Title 16 of the Fountain Municipal Code, shall have duties including the inspection of plans for structures to determine compliance with the provisions of Title 16 and for issuance of permits for building construction and site improvements, certificates of occupancy and other duties as herein authorized. In meeting the responsibilities of the above duties, the Building Official may solicit the assistance of other City officials, other agencies or consultants as deemed necessary.

Section 17.20.040 Planning Commission

A. Affirmation. The Planning Commission is created pursuant to and under the authority of the City Charter. (Refer to Title 2, Chapter 2.16 Planning Commission).

B. Powers and Duties. The Planning Commission shall have all powers, discretion and duties established by the Title 2, Chapter 2.16 Planning Commission.

Section 17.20.050 Board of Adjustment

A. Appointment of the Board of Adjustment. In accordance with the powers and authority of the City Charter, the City Council has established a Board of Adjustment as specified by Chapter 2.15 of the City of Fountain Municipal Code.

B. The Board of Adjustment shall have the power and duty to:

   1. Hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator relating to interpretations of the official zoning map and the intent or meaning of any wording within this Title. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made; and to that end, shall have all the powers of the Zoning Administrator.

   2. Hear and decide, grant or deny variances from the provisions of this Title as set forth in Chapter 17.25.

C. The Board of Adjustment shall not have the power to change this Title or to change the official zoning map.

Section 17.20.060 Certificates of Occupancy

After the effective date of this Title, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building or structure other than for detached single family residences or for farming or gardening shall be made, nor shall any new building or structure be occupied for any purpose other than for detached single family residential use until a certificate of occupancy has been issued by the Building Official. No certificate of occupancy shall be issued by the Building Official unless the proposed use of the building, structure or land, and improvements thereto, conforms to the requirements of this Title.

Section 17.20.070 Pre-Application Meetings

A. Subject to the exceptions provided by Subsection (E) below, if requested by the Zoning Administrator, the applicant shall attend a pre-application meeting with the City planning staff and such other personnel as the City deems necessary.

B. The purpose of the pre-application meeting is to define the scope of the project, to alert the applicant and the City to any particular circumstance concerning the subject property and, in general, to settle on the suitability of the proposed project prior to extensive planning.

C. An informal preliminary application shall be submitted at the pre-application meeting. The informal application should describe the nature and scope of the proposed application and, in the case of a PUD application, shall include a sketch plan reflecting total acreage, adjacent landowners, adjacent land uses, existing and proposed streets, highways and utilities that will service the project, major physical features, including drainages, the location of natural features in and around the development and existing and proposed uses, including the number of dwelling units. The City Planner may waive any of these requirements in his or her discretion.

D. Prior to or at the time of the pre-application meeting, the applicant shall submit a development review cash deposit in the amount set forth in the Fee Schedule adopted by the City Council from time to time.

E. The pre-application meeting required by this Section shall not apply to applicants for sign permits, minor amendments to PUDs requiring administrative approval only, site development plans for new single family residences, new two-family residences and new accessory structures and variances and appeals to the Board of Adjustment

Section 17.20.080 Public Notice

A. Purpose and Intent

1. All land use applications that require a public hearing before the Planning Commission, City Council or Board of Adjustment shall be subject to the requirements contained in this Section. It is intended to provide for adequate notification ensuring the opportunity for public participation of land use proposals within the City.

B. Requirements

1. All applications requiring public hearing shall meet these requirements prior to the established hearing date. The Planning Commission, City Council, or Board of Adjustment may continue the hearing to a date certain. No further notice of a continued hearing must be provided unless a period of six (6) weeks or more elapses between the hearing dates, before the same board. In situations where this time period has passed, additional publication of the notice of public hearing is required in accordance with Section 17.20.080 below.

2. All required public notices shall be performed by the City at the applicant's sole cost and expense.

3. No public hearing shall commence unless and until all manner of public notice required of such hearing by this Section have been provided.

C. Procedures

1. At least fifteen (15) days prior to a public hearing, a notice shall be published at least one time in the legal notice Section of a general circulation newspaper within the City of Fountain. A publisher's affidavit shall be obtained by the Zoning Administrator prior to the hearing date to verify the publication of the required notice.
2. At least fifteen (15) days prior to a public hearing, a notice shall be posted on the property for which the land use application is made. The posted notice sign shall be installed in accordance with Chapter 17.12 Signs.
3. Notice of the public hearing shall be sent by first-class mail to the record owners of property within four hundred (400) feet of the subject property at least fifteen (15) days in advance of the public hearing.
4. The content of all notices of public hearing shall be as specified by city administrative guidelines.

Chapter 17.21 Plot Plans for Single and Two-Family Homes

Section 17.21.010 Plot Plan Requirements

A. Every building permit application for detached single family and two-family dwelling units shall be accompanied by two (2) copies of a plot plan (for uses other than detached single family and two-family dwelling units, please refer to the Site Development Plan requirements set forth in Chapter 17.23). The plot plan shall be drawn to scale and show the following information in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed excavation, construction, conversion, moving or alteration is in conformance with the Title:

1. The actual shape and dimensions of the lot.
2. The location, size, shape and intended use of all the structures.
3. The height, setbacks and building coverage of all structures.

B. Any other information required by the Pikes Peak Regional Building Code or Zoning Administrator, concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Title are being observed.

C. An approved plot plan shall expire six (6) months after Zoning Administrator approval unless the associated building permit(s) have been issued. Thereafter, the duration and expiration of the building permit(s) and associated approved plot plat shall run concurrently and be governed by the building permit process. In no circumstance shall a Plot Plan approved by the Zoning Administrator pursuant to this Section be amended through or by the building permit. An approved Plot Plan may only be amended by the written approval of the Zoning Administrator.

Section 17.21.020 Public Improvements

A. The Zoning Administrator shall review the plot plan to determine whether any public improvements or conveyances such as streets, street paving, curb and gutter, driveway approaches, sidewalks, rights of way or easements shall be required for detached single family and two-family dwelling units. If it is determined that such public improvements or conveyances are necessitated by the proposed development of the property, the developer or property owner shall be required to construct or convey such public improvements or conveyances to the City. The cost of any such public improvements, conveyances or sureties shall be borne by the developer or property owner and the construction or conveyance thereof shall be at the sole risk and expense of the developer or property owner.

B. The Zoning Administrator may authorize the deferral of the construction of public improvements and/or conveyances necessary for the same, if the developer or property owner provides a performance bond or other acceptable security to the City in an amount equal to one hundred fifty (150) percent of the estimated cost of the deferred improvements. A construction cost estimate shall be furnished by the developer or property owner and reviewed by the City in order to determine the estimated cost of the deferred improvements, prior to the submission of said security.

C. Such security, shall be held by the City Clerk, shall list the exact work that shall be performed by the applicant and shall specify that all of the deferred improvements be completed within one (1) year from approval of the final plat or plat plan. Extensions of this time period may be authorized by the Zoning Administrator upon a showing by the applicant of good cause for the delay and a proposed improvement construction schedule illustrating the applicant's ability and plan to complete the required improvements within the succeeding twelve (12) months. In the event an extension is authorized, the security shall be revised to reflect the new completion date. The City reserves the right, in addition to all other remedies available to it by law, to proceed against such bond or other security in lieu thereof. The requirement of the posting of any performance bond or other security shall be binding upon the applicant, her/his heirs, successors and assigns.

Chapter 17.22 Planned Unit Developments (PUD)

Section 17.22.010 General Provisions

A. Scope and Intent. Applications for planned unit developments may be made for any lands located within the boundaries of the City or any lands in the process of being annexed to the City. The planned unit development approach for a specific project will only be approved if it is in accordance with the guidelines set forth in the Fountain Comprehensive Development Plan, and purpose set forth in Chapter 17.04.

B. Zone Changes. The Planning Commission, City Council, or property owners of record can initiate a PUD process.

C. Amendments to Official Zoning Map. A Planned Unit Development Zoning District is to be permitted as an amendment to the official zoning map upon approval of an application for zoning or rezoning.

D. Control of Amenities in Phased Development. Each development phase shall provide its proportionate share of open space, recreational facilities and common amenities. The overall development plan (ODP) shall include mechanisms to coordinate the provision and improvement of open space, recreational facilities and common amenities with the construction of dwelling units or other land uses.

E. Modification or Waiver Standards. In order to allow maximum flexibility and to encourage creative design, the City Council, after Planning Commission review and recommendation, may waive or modify the standards set forth herein for a PUD provided that unusual circumstances exist, a higher level of amenities is provided and the design of the development meets the provisions outlined in this Chapter.

F. Subdivision of Land Required. No building permits shall be applied for or granted on any portion of property, which is zoned to PUD until and unless the property is platted, as applicable, in accordance with the Title 16 (Subdivision).

Section 17.22.020 Application Process

A. General. The planned unit development process requires the preparation of an ODP for any project proposed for PUD zoning designation in addition to a preliminary site development plan and/or final site development plan for each phase of the PUD. An ODP is the first step in the PUD process. This document establishes the permitted uses, siting restrictions and overall development controls and standards for the entire PUD area. The ODP constitutes the overall zoning plan for the property. ODPs are dynamic and flexible documents that may be adjusted over time by the City Council, after Planning Commission review and recommendation, to reflect changing conditions.

B. Pre-application meeting in conformance with this Chapter shall occur prior to submitting a zoning or rezoning application for a planned unit development.

Section 17.22.030 PUD Application and Submission Requirements for the PUD

A. Application Form and Application Fee Schedule. Application forms and an application fee schedule shall be provided to the applicant by the Zoning Administrator.

B. Overall Development Plan (ODP). The plan document shall have an outer dimension of twenty-four (24) inches by thirty-six (36) inches, and shall also be duplicated in eleven (11) inches by seventeen (17) reproducible size; and contain the following information:

1. Parcel size stated as gross acres and square footage.
2. Existing topographical character of the land with elevation contours at five (5) feet intervals or less, showing all water bodies and courses, wetlands, floodplains, unique natural features, and existing vegetation, critical wildlife habitat as identified by existing habitat conservation plans and/or the Colorado Division of Wildlife.
3. Approximate acreage and density of each area proposed for residential and nonresidential uses; number and type of residential units; and estimated floor area and types of commercial and industrial uses.

4. Total land area and approximate location and amount of open space, as defined herein.
5. Approximate alignment of proposed and existing arterial and collector streets and pedestrian and bicycle routes, including major points of access.
6. Approximate location and number of acres of any public use such as parks, school sites, and other public or semi-public uses.
7. Height, yard, lot and other development standards.
8. Location of existing and proposed primary utility lines.
9. Areas beyond the property lines to a distance of at least one hundred and fifty (150)feet, exclusive of public right of way, at the same scale as the ODP, to include the following:
    a. Existing and proposed land uses, principal structures and other features.
    b. Density of adjacent residential uses.
    c. Traffic circulation.
    d. General topographic mapping of the area.
    e. Significant environmental amenities.
    f. Topography, drainage ways, and other natural features.
    g. An "existing conditions" map of the area surrounding the site to a distance of at least one (1) mile showing the following:
        i. Zoning districts.
        ii. Traffic circulation systems.
        iii. Major public facilities.
10. Location of existing municipal boundaries, service and school district boundaries.
11. Written Narrative. The following written information shall be provided by the applicant:
    a. A statement of planning objectives.
    b. A statement of proposed ownership of public and private open space areas.
    c. A proposed development-phasing schedule.
12. Master development drainage plan.
13. General utility report indicating the providers and general system requirements for water, sewer, gas, electric and communication utilities.
14. Additional information as may be required by the Zoning Administrator, Planning Commission, or City Council, which is necessary to evaluate the character and impact of the ODP area. This includes by way of example a traffic impact analysis.
15. Copies. The number of copies required for each required item, will be determined by the Zoning Administrator.

C. Review Criteria. PUDs shall be reviewed to ensure that the general public health safety and welfare are safeguarded and for substantial conformance to the following applicable review criteria:

1. The PUD is consistent with the Fountain Comprehensive Development Plan and other adopted plans.
2. The PUD achieves the stated objectives of the Planned Unit Development District, by allowing for the mixture of uses and greater diversity of building types, promoting environmental protection, limiting sprawl, improving design quality and a higher-quality living environment, encouraging innovation of design and a variety of housing types, and managing the increase in demand for public amenities.
3. The PUD design achieves the stated development concept.
4. The proposed land uses are compatible with other land uses in the development and with surrounding land uses in the area.
5. The type, density, and location of proposed land uses are appropriate based on the findings of any required report or analysis.
6. The street design and circulation system are adequate to support the anticipated traffic and the proposed land uses do not generate traffic volumes, which exceed the capacity of existing transportation systems, or that adequate measures have been developed to effectively mitigate such impacts.
7. The PUD adequately mitigates off-site impacts to public utilities and facilities.
8. The fiscal impacts have been satisfactorily addressed and the City will be able to provide adequate levels of service for police and fire protection, street maintenance, snow removal and other public services, or that adequate measures have been developed to effectively mitigate such impacts.
9. Higher levels of amenities, including open spaces, parks, recreational areas, trails and school sites will be provided to serve the projected population.
10. The PUD preserves significant natural features and incorporates these features into parks and open space areas.
11. There are special physical conditions or objectives of development that the proposal will satisfy to warrant a departure from the standard regulation requirements.
12. The adjacent and nearby developments will not be detrimentally affected by the proposed PUD and approval period.
13. The applicant adequately demonstrates that the proposal is feasible.

D. Upon approval of the PUD by the City Council, after Planning Commission review and recommendation, the applicant shall have one hundred eighty (180) days to submit a final mylar of the ODP, as finally approved, to the Zoning Administrator for signature by the Mayor. In its discretion and for good cause shown by the applicant, the Planning Commission may extend the time a maximum of sixty (60) days. Upon lapse of the two hundred forty (240) day period and any

time extension, the approval of an ODP associated with an approved PUD shall expire and shall be void. An approved ODP for which final mylar is timely provided in accordance with this subsection A. is valid for a period not to exceed one (1) year from final approval unless the applicant proceeds to a site development plan or preliminary plat on any portion or phase of the subject property to obtain further development rights. After such expiration, a new ODP must be submitted for review in accordance with this Section by the Planning Commission.

E. An extension of an approved ODP for which final mylar is timely provided in accordance with Subsection A. above to allow the applicant to submit a Site Specific Development Plan may be granted by the Planning Commission. In order to be eligible for an extension, the applicant shall file an application for extension with the City at least thirty (30) days prior to the date the ODP would lapse. A progress report and revised schedule shall be submitted with the request for extension. An extension may only be granted if the Planning Commission finds:

1. The applicant has maintained a continuous effort in good faith in preparing a preliminary Development Plan including, but not limited to, preparing financing, securing state or federal permits, undertaking engineering and design, etc.; and

2. Conditions near the site, these standards and regulations, and the Comprehensive Plan have not changed in a way to render the original findings erroneous.

F. An ODP shall be limited to one ninety (90)-day extension.

Section 17.22.040 Amendments to Approved Overall Development Plan (ODP)

A. Intent. From initial concept and approval to final construction, unforeseen changes and ordinary refinements occur which may require changes to the approved ODP. In order to streamline the review process and to eliminate unnecessary delays, the intent of this Section is to establish a procedure for approving minor ODP revisions. It is also the intent of this Section to establish a procedure to review and approve significant changes to the approved ODP.

B. Minor Amendments.

1. Minor amendments to an approved ODP may be approved administratively by the Zoning Administrator.

2. Minor amendments shall not represent more than a fifteen percent (15%) change in the location, height, yard, lot and other development standards, and can only be granted if required by engineering or other circumstances not foreseen at the time the ODP was approved so long as no modification violates any standard or regulation set forth in this Title.

3. The applicant shall make a written request to the Zoning Administrator justifying the proposed minor amendment and clearly showing on the ODP that portion which is proposed for amendment. A record of such approved minor amendment shall be kept on file in City Hall.

C. Major Amendments.

1. Major amendments to an approved ODP shall be processed in the same manner as the original ODP. Approval of a major amendment to an approved ODP shall be by Ordinance. Major plan amendments include, but are not limited to the following:

a. A change in land use or development concept.

b. An increase in residential density levels or building coverage of commercial and industrial uses.

c. A realignment of major circulation patterns or a change in functional classification of major streets.

d. A reduction in approved open space or common amenities.

e. An increase in problems with public utilities, facilities or services.

f. Other significant changes which involve policy questions or issues of overriding importance to the community.

D. A request for a major amendment shall be accompanied by the same type and quality of information as was necessary for the original final approval and passage, in addition to the following:

1. A map of the entire ODP's area, which clearly defines that portion which is proposed for amendment.

2. A justification of the proposed amendment, including a discussion of any changes in impact, which would result from the amendment.

Chapter 17.23 Site Development Plan (Preliminary and Final)

Section 17.23.010 Purpose and Intent

A site development plan is a detailed development plan for a property, which generally permits an evaluation of the intended use, and such design elements as circulation, parking and access; open space and landscaping; building location and configuration; grading and drainage; setbacks and screening; public improvements; and other elements, which determine if the proposal has been planned consistently with the intent of this Title. The site development plan is intended to provide a review procedure so the City may evaluate the impacts of site development plans on a particular parcel and on the surrounding area. It is also intended to ensure that the proposal meets certain minimum standards to enhance the physical and aesthetic integrity of the community.

Section 17.23.020 Application Process

A site development plan shall be required for all uses located in all zoning districts with the exception of detached single family and two-family dwelling units. The procedures set forth herein shall apply to all site development plan requests submitted pursuant to this Chapter. After the applicant has held a pre-application meeting with City staff, the applicant may, with consent of the Zoning Administrator, choose to proceed with submission of the application for a final site development plan.

Section 17.23.030 Pre-Application Meeting

Pre-Application Meeting in conformance with this Chapter is required prior to the submittal of an application for Site Development Plan.

Section 17.23.040 Preliminary Site Development Plan - Submittal Requirements

A. The following constitutes the submission requirements for a preliminary site development plan:

1. Application form and application fee.
2. Legal description of the site.
3. A preliminary site development plan to be at an appropriate scale, as determined by the Zoning Administrator, with a minimum outer dimension of twenty-four (24) inches by thirty (30) inches, and duplicated in eleven (11) inches by seventeen (17) inches reproducible size to contain the following information:

    a. Name by which the proposed development is to be referred.

    b. Date of preparation, the scale and a symbol designating true north.

    c. Parcel size stated in gross acres and square feet.

    d. Topographic contours at two (2)-foot intervals or less.

    e. Total number, type and density per type of dwelling unit.

    f. Total floor area for nonresidential uses and ratio of floor area to lot area with a breakdown by type of land use.

    g. Location and square footage of each area designated for passive and active recreational use.

    h. Location and acreage of common areas and all public land uses, including public parks, recreation areas and similar uses.

    i. Proposed coverage of buildings and structures including the following:

    j. Percentage and square footage of building coverage.

    k. Percentage and square footage of driveway and parking.

    l. Percentage and square footage of public street right of way.

    m. Percentage and square footage of open space and landscaped area.

    n. Number and location of off-street parking spaces, including automobile, handicapped, and bicycle, with typical dimensions for each type.

    o. Existing and proposed streets, designation of streets to be public or private and any private access ways to be dedicated as public utility and/or access easements.

    p. Location of existing and proposed pedestrian circulation system, including sidewalks.

    q. Existing zoning.

    r. Proposed treatment of the perimeter of the development, including materials and techniques used, such as screens, fences, walls, and landscaping.

    s. A vicinity map of the areas surrounding the site to a distance of at least one-half (1/2) mile showing the following:

i. Zoning districts.

ii. Traffic circulation systems.

iii. Major public facilities.

iv. Location of existing municipal boundaries, service district boundaries and school district boundaries.

v. Owner's certification of acceptance of conditions and restrictions as set forth on the preliminary development plan.

vi. Proof of ownership, which includes a current or updated Title policy or commitment, no more than sixty (60) days old.

vii. Signature block certification of approval of the preliminary site development plan.

viii. Any additional information as may be required by the Zoning Administrator or Planning Commission, which is necessary to evaluate the character and impact of the preliminary site development plan.

t. Preliminary subdivision plat, or final subdivision plat, if required. The subdivision plat may be combined with the preliminary site development plan.

u. Other documentation as determined by Zoning Administrator or Planning Commission.

v. Preliminary utility report and plan to include sanitary sewers, storm sewers, water, electric, gas, and fire hydrant locations. Plans must be prepared by a registered engineer, consistent with the related reports submitted with the final plat, if applicable.

w. Street cross-section schematics provided for each category of street, including the proposed right of way and pavement width, curb, gutter and sidewalk locations.

x. Preliminary drainage plan, consistent with the approved master development drainage plan, if applicable. Plans must be prepared by a registered engineer.

y. Conceptual plans of all buildings, including representative architectural elevations, sufficient to convey the intent of the proposed development.

z. The Zoning Administrator may waive or modify any application submittal requirements, if the intent of this Chapter is not violated. The applicant shall make a written request to the Zoning Administrator justifying the requested waiver or modifications. A record of requested waivers and modifications shall be kept on file at the City.

Section 17.23.050 Preliminary Site Development Plan - Review Process

A. Within seven (7) days of receipt of the preliminary site development plan, the Zoning Administrator will inform the applicant in writing if the application is incomplete. If the application is deemed incomplete, no further processing will occur until the deficiencies are corrected.

B. Following the determination that the application is complete, the Zoning Administrator and other City staff shall review the application to determine whether it is in conformance with the

requirements of this Title, and all other applicable regulations and meets the intentions of the Fountain Comprehensive Development Plan.

C. Copies of the application materials shall be forwarded to all affected referral agencies for a twenty-one (21) day review and comment period. The purpose of this review period is to collect information in order to identify issues (including but not limited to environmental, physical, technical and other issues), determine the extent of the impact and device solutions to eliminate or lessen the impacts before consideration by the Planning Commission. If necessary, the application materials are also sent to technical consultants, hired by the City, for their review and comment. Failure of a referral agency to respond within the prescribed time frame shall deem the application approved by the referral agency.

D. Upon the close of the review period, the Zoning Administrator shall make a report of the findings and City staff's recommendations to the Planning Commission, and schedule the matter with the Planning Commission.

E. The Planning Commission shall review the application. The Planning Commission shall consider the findings and recommendations of the Zoning Administrator and other City staff or referral agencies in making its recommendation, and shall approve, with or without conditions, disapprove or table the application to a date certain.

F. Review Criteria. The preliminary site development plan shall be reviewed to ensure that the general public health safety and welfare are safeguarded and for substantial conformance to the applicable review criteria set forth in this Title. Applicable review criteria shall mean such criteria contained in this Title as the Planning Commission determines is necessary to properly review the preliminary site development plan.

Section 17.23.060 Final Site Development Plan - Submittal Requirements

A. After the applicant has held a pre-application meeting with the Zoning Administrator and other City staff, the applicant, with the consent of the Zoning Administrator, may choose to proceed with submission of the application for a final site development plan. The final site development plan application must contain the following information:

1. Application form completed and signed by all owners of record.
2. Proof of ownership, which includes a current or updated Title policy or commitment, no more than sixty (60) days old.
3. Non-refundable application and review fee.
4. Final site development plan exhibit, prepared in accordance with this Section.
5. Required technical reports (including but not limited to a final drainage report, utility plan, traffic impact study, and environmental assessment study).
6. Project tracking information. Each final site development plan located within a larger ODP, shall include a summary of the development to date in tabular form, to assist the City in tracking density, open space conveyances and other pertinent development data.

7. The number of required copies of documents to be submitted by the applicant will be determined by the Zoning Administrator.
8. The Zoning Administrator may waive or modify any application submittal requirements, if the intent of this Chapter is not violated. The applicant shall make a written request to the Zoning Administrator justifying the requested waiver or modifications. A record of requested waivers and modifications shall be kept on file at the City.

B. No application shall be considered accepted until all required information is submitted.

C. Final Site Development Plan Exhibit. The final site development plan shall consist of a black ink drawing with a minimum outer dimension of twenty-four (24) inches by thirty (30) inches, and duplicated in eleven (11) inches by seventeen (17) inches reproducible size, and shall contain the following:

1. Date, north arrow, scale (one (1) inch = fifty feet or larger), name and address of project, and legal description of the land area.
2. Vicinity map with north arrow.
3. Existing contours and proposed finished grade topography at two (2) foot intervals or less.
4. Adjacent streets, curb cut and driveway locations, drive aisles including dimensions.
5. Off-street parking locations, dimensions, type of surfacing and total number of parking spaces by type.
6. Locations and dimensions of all existing access points on immediately adjacent properties.
7. The graphic location, dimensions, maximum heights, and gross floor area of all existing and proposed commercial structures, the uses to be contained within and the location of entrances and loading points.
8. Finished floor elevations.
9. Elevation details for proposed site facilities, including curbs, parking lots, drainage swales, etc. using spot elevations, cross-sections and construction details.
10. Type of building construction and occupancy classification.
11. The graphic location, dimensions, maximum heights and density of all existing and proposed residential structures.
12. Existing and proposed easements and rights of way.
13. Specific natural features, such as mature trees, drainage ways, floodplains, and slopes over fifteen percent (15%) grade.
14. Existing and proposed drainage facilities, including dimensions, surface treatment, volume capacity and size of outlet restrictor.
15. Location and size of existing and proposed public and private water, sewer, gas and electrical service connections.

16. Location, type and height of lighting standards and enclosed trash receptacles.
17. Construction details for enclosed trash receptacles, curb, gutter, light pole bases, drainage facilities, pedestrian ramps, etc.
18. Location of existing and proposed fire hydrants.
19. Location and height of fences and screening used to divide properties and to obscure outdoor storage.
20. A landscape plan showing the location, type, size and quantity of plant materials and other landscaping materials. Percentage of parking area devoted to landscaping, if ten (10) or more parking spaces. Delineation of visibility triangles at street intersections and access points with streets.
21. The location, height and area of freestanding pole and/or monument signs.
22. Representative architectural elevations of proposed structures.
23. Owner of record signature block.
24. Additional information as may be required by the Zoning Administrator.

Section 17.23.070 Final Site Development Plan - Review Process

A. Within seven (7) days of the receipt of the formal application, the Zoning Administrator shall inform the applicant in writing whether the application is not complete. If the application is deemed not complete, no further processing will occur until the deficiencies are corrected.

B. Following the determination that the application is complete, the Zoning Administrator and other City staff shall review the application to determine whether it is in conformance with the requirements of this Chapter, and all other applicable regulations or overall development plan (ODP) and the intentions of the Fountain Comprehensive Development Plan.

C. In addition, copies of the application materials shall be forwarded to all affected referral agencies for a twenty-one (21) day review and comment period. The purpose of this review period is to collect information in order to identify issues (including but not limited to environmental, physical, and technical issues), determine the extent of their impact and propose solutions to eliminate or lessen the impacts before final determination by the Zoning Administrator.

D. An approved final site development plan shall be considered expired, null and void if a building permit has not been issued within one (1) year from the date of approval unless the final site development plan receives vesting, pursuant to this Title. The Zoning Administrator for good cause may grant an extension upon request of the applicant prior to expiration of the final site development plan. No extension shall be granted for any final site development plan that does not conform to the requirements of this Title.

E. Final Site Development Plan - Review Criteria.

1. The Zoning Administrator shall base the final decision on the following review criteria, where applicable:

a. The application is complete in form and contains all required information.

b. The proposal meets the objectives of the ODP, if applicable, and the intent of the Fountain Comprehensive Development Plan or any other adopted plans.

c. The final site development plan is consistent with the requirements and development standards of the particular zoning district and other regulations of this Title.

d. There is an appropriate relationship to the surrounding area.

e. The circulation is designed for the type of traffic generated, safety, and separation from living areas, convenience, access, handicap access, noise, and exhaust control.

f. All utilities been approved by the appropriate agencies.

g. The access points, off-street parking facilities, loading areas and pedestrian ways are designed to promote safety, convenience, separation and ease of traffic flow both on-and off-site.

h. Functional open space and recreational amenities have been provided, if applicable.

i. Building types and designs are appropriate in terms of density, bulk, and height.

j. Building design, in terms of orientation, spacing, material storage and lighting are appropriate.

2. Public Improvements. In addition to the review criteria set forth above, the Zoning Administrator shall review the site development plan to determine whether any public improvements or conveyances such as streets, street paving, curb and gutter, sidewalks, rights of way or easements shall be required. If it is determined that such public improvements or conveyances are necessitated by the proposed development of the property, the owner shall be required to construct or convey such public improvements or conveyances to City standards and shall dedicate public improvements or conveyances to the City. The cost of any such public improvements or conveyances shall be borne by the owner and the construction or conveyance thereof shall be at the sole cost, risk and expense of the owner.

3. Appeals. If a site development plan is denied by the Zoning Administrator, the applicant may appeal the decision pursuant to Chapter 17.25 Variances and Appeals. During the time an appeal is pending, no building permit shall be issued.

4. Modifications or Waivers of Submittal Requirements. The Zoning Administrator may modify or waive specific submittal requirements. Such requirements may be modified or waived only if the intent of this Title is not violated.

5. Amendments to Approved Site Development Plan. Minor changes to an approved site development plan may be approved administratively by the Zoning Administrator in an abbreviated manner as set by office policy. Major amendments shall be subject to the same application, review and appeal processes applicable to the original site development plan.

Chapter 17.24 Rezoning Procedures and Amendments

Section 17.24.010 Initiation of Procedures

A. The procedure for rezoning property may be initiated by the City Council, Planning Commission, Zoning Administrator, or any property owner within the City.

1. The City may from time to time amend the number, shape or boundaries of any zoning district, the uses permitted within a zoning district, any regulation of or within a zoning district, or any other provision of this Title.

2. All territory annexed to the City shall be zoned in accordance with the zoning classifications established by this Title and in accordance with the procedures in this Section. All annexed land shall be zoned at the time of annexation.

3. Planned unit developments as described under Chapter 17.22 shall be processed as amendments to the official zoning map.

Section 17.24.020 Who May Apply

A. A request for an amendment to the official zoning map may be presented to the City Council by person(s) owning real property within the City of Fountain.

B. Property owners 1) requesting the addition of a land use into a zoning district in which it is not enumerated in this Title, or 2) appealing a determination of the Zoning Administrator regarding the classification of a use, or 3) pursuing a classification for which the determination of the Zoning Administrator has been appealed, may apply to the City Council, after Planning Commission review, for consideration of the proposed amendments to the zoning district.

C. The City Council or the Planning Commission may initiate an amendment to the official zoning map. Any property owner may suggest to the City Council or to the Planning Commission that an amendment be given consideration.

Section 17.24.030 Protest of the Proposed Amendment

A. An amendment to the official zoning map shall not become effective except by favorable vote of three fourths (3/4) of all voting members of the City Council if a valid protest against the amendment is presented at or prior to the public hearing at which the amendment is heard. A protest is valid only if signed by either:

1. The owners of twenty percent (20%) or more of the area of the lots included in such proposed amendment, or;

2. The owner of twenty percent (20%) or more of the area of those lots located within one hundred (100) feet of the boundary of the area in the proposed amendment, excluding any distance for public rights of way.

Section 17.24.040 Zoning and Rezoning Procedure

A. Pre-application meeting in conformance with these regulations is required prior to submittal of an application to zone or rezone any property.

B. Submittal Requirements. An application for approval of zoning or rezoning may be initiated only by the fee owner of the property for which the zoning or rezoning is requested or his duly authorized agent. The application shall be submitted on forms provided by the City and shall contain, at a minimum, the following information:

1. Name, address, telephone number, fax number and e-mail address of the property owner and applicant.
2. Legal description of the property and street address, if applicable.
3. Property size, existing zoning and tax schedule number.
4. Map or plan of the property including all municipal, service and school district boundaries.
5. The name and addresses of all adjoining property owners of record.
6. Justification as to why the zoning or rezoning request should be approved.
7. Pertinent information about adjacent properties and uses needed in evaluating the rezoning request.
8. An ODP or alternatively a preliminary site development plan for determination that the zoning or rezoning request conforms to the review criteria set forth in this Title.
9. The application shall be signed by the property owner or his duly authorized agent and shall be accompanied by a nonrefundable fee as determined by the City Council to cover costs related to the application. An application shall not be considered accepted until all required information is submitted.

C. Review.

1. Prior to the Planning Commission public hearing, the Zoning Administrator shall request interested City departments and other agencies to comment on the application.
2. The Zoning Administrator shall study the application and shall make a report of his findings to the Planning Commission.
3. Notice of the Planning Commission public hearing shall be given in accordance with Section 17.20.080 at least fifteen (15) days in advance.
4. Failure to give full notice as required by the terms of this Section due to a clerical or administrative oversight or omission shall not affect the validity of any hearing or decision if it does not substantially and materially impact due process rights. A hearing, once commenced, may be continued to a definite date, time and place without any additional public notice being required.

5. The Planning Commission shall hold a public hearing on the application. Following the public hearing, the Planning Commission shall make recommendations to the City Council concerning the application.
6. Notice shall be given in accordance with Section 17.20.080 and by publication pursuant to the Ordinance requirements of the City Charter. Following the public hearing, the City Council shall deny the application, approve the application by Ordinance, continue the application to a definite date or refer it to the Planning Commission for further study. An Ordinance may impose conditions on zoning or rezoning.

Section 17.24.050 Review Criteria

A. No approval of an application for zoning or rezoning shall be granted unless the application meets the minimum development requirements and regulations of the applicable zoning district and unless at least one of the following review criteria are found:

1. The request is consistent with the ODP of the property, if applicable, and the Fountain Comprehensive Development Plan.
2. The request is compatible with the surrounding zoning and land uses.
3. There has been a material change in the character or conditions of the neighborhood or in the City generally, such that the request would be in the public interest and consistent with the change.
4. The property was previously zoned in error.

Section 17.24.060 Initial Zoning of Annexed Areas

An application for initial zoning of land annexed to the City shall be processed as set forth in this Section. Such application for initial zoning may be filed concurrently with the petition for annexation, but the proposed Zoning Ordinance shall not be passed on final reading prior to the date when the annexation Ordinance is passed on final reading. If there is no request for initial zoning by the applicant for annexation, the land annexed to the City shall be zoned by the City within ninety (90) days after the effective date of the annexation Ordinance.

Section 17.24.070 Reconsideration Time Limit

A proposed zoning or rezoning request for a similar zoning district and/or area to one already denied by the City Council shall not be reconsidered by the City Council within one (1) year of the date of such City council action. Submission by a different applicant or minor changes in boundaries shall not be adequate reason to circumvent this requirement. However, if evidence is presented showing that there has been a substantial change of circumstances, the City Council, after Planning Commission review, may reconsider said application.

Chapter 17.25 Variances and Appeals

Section 17.25.010 Who May Apply

Any person aggrieved by the inability to obtain a building permit, (except where inability to obtain a building permit is due to denial of a conditional use or rezoning application by the City Council), or by decision of any administrative officer in the City based upon or made in the course of the administration of or enforcement of the provisions of this Title may appeal that decision pursuant to the terms of this Chapter. Appeals may also be made by any officer, department, board or bureau of the City affected by the grant or refusal of the building permit, or by other decision of the administrative officer or agency, based on or made in the course of administration or enforcement of this regulation.

Section 17.25.020 Time Limit and Procedure for Appeals

Appeals shall be made in writing and filed in accordance with Chapter 2.15 Board of Adjustment.

Section 17.25.030 Stay of Proceedings

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

Section 17.25.040 Appeals

A. Appeals from Administrative Decisions to the Board of Adjustment. Any person aggrieved by an administrative decision made by the Zoning Administrator on a matter involving an interpretation of this Title or the official zoning map may appeal such decision to the Board of Adjustment pursuant to Chapter 2.15 Board of Adjustment. The Board of Adjustment may affirm, modify or reverse (wholly or partially) the administrative decision made by the Zoning Administrator.

B. Appeals from Administrative Decisions to the Planning Commission. Any person aggrieved by an administrative decision made by the Zoning Administrator on a matter that may not be appealed pursuant to this Chapter otherwise to be appealed to the Board of Adjustment pursuant to subsection A of this Section, may appeal such decision to the Planning Commission within thirty (30) days from the date of the decision. The appeal shall be in writing and briefly state the grounds upon which the appeal is based. The Planning Commission may affirm, modify or reverse (wholly or partially) the administrative decision made by the Zoning Administrator.

C. Appeals from the Planning Commission's Decisions. Any person may appeal to the City Council any action of the Planning Commission in relation to this Title, where such action was adverse to such person by filing with the City Clerk a written notice of appeal. Such notice of appeal shall be filed with the City Clerk no later than fifteen (15) days after the action from which appeal is taken, and shall briefly state the grounds upon which the appeal is based. The City Council may refer any

matter so appealed back to the Planning Commission for further consideration, affirm the action of the Planning Commission, reverse the action of the Planning Commission or modify said action.

Section 17.25.050 Variances.

Requests for relief from the regulations and development standards of this Title may be taken to the Board of Adjustment pursuant to Chapter 2.15.115 when the strict application of this Title will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding.

Section 17.25.060 Standard of Review for Variance Requests

A. For any requests for variance pursuant to Section 17.04.150, the Board of Adjustment may, after public hearing, modify the application of the regulations or provisions of this Title relating to the construction, or alteration of buildings or structures if it finds that all of the following exist:

   1. Due to exceptional and extraordinary circumstances unique to the property or structure, such as topography or other natural features present on the property, for which the variance is sought, the strict enforcement of the provisions of this Title would cause an unnecessary hardship to the applicant. The circumstances causing the unnecessary hardship were not created by an owner or user of the property or by the applicant for the variance. Additionally, the circumstances causing the unnecessary hardship are particular to the land or structure for which the variance is sought and do not apply generally to land and buildings in the zoning district in which the property is located.

   2. The variance requested is the minimum deviation from the Title necessary to allow the same and no greater use as that allowed of other land or structures in the same zoning district.

   3. The granting of the variance will not allow uses or densities not permitted in the zoning district in which it is granted nor shall the variance allow the expansion or establishment of a non-conforming use.

   4. The granting of the variance will not injure the appropriate use of adjacent conforming properties, will not impair an adequate supply of light and air, will not impair the view from the adjacent property, and will not substantially diminish or impair property values within the surrounding area.

   5. The granting of the variance will be consistent with the spirit, purpose, and intent of this Title and will not create a situation, which alters the character of the area surrounding the property for which the variance is granted.

   6. The granting of the variance will secure and in no way diminish the public safety and welfare; not impair prevention of or increase risk of fire, flood, traffic congestion or other hazard.

B. In granting a variance, the Board of Adjustment may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies and may impose such conditions on the use of the property for which the variance is sought as are consistent with the purposes of this Title. If such safeguards or conditions are

imposed, the variance shall not become effective until the owner of the property and the applicant agree to abide by such conditions.

Section 17.25.070 Not Transferable

Each variance shall apply specifically to the property or structure described in the approval and shall not be transferable to any other property or structure.

Section 17.25.080 Duration

A. Unless limited by its terms, a variance shall remain in full force and effect as long as the use for which the variance is sought continues. However, failure to apply for a building permit to carry out the work involved in the variance, within one (1) year from the date the variance was granted, shall constitute abandonment of the variance.

B. Discontinuance of the use for which the variance was granted for a period of one (1) year or more shall constitute abandonment of the variance. Upon abandonment, the variance shall automatically cease to exist with no further action by the Board of Adjustment.

Chapter 17.26 Conditional Use

Section 17.26.010 Purpose and Intent

The purpose of conditional use review is first, to recognize that some uses may or may not be appropriate in a particular district depending upon the circumstances of the individual case and, second, to allow review of such cases 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 Title. Uses which require a conditional use permit are those which may be allowed in the zoning district in which they are listed if it can be demonstrated that the use, in the proposed location, is compatible with the district characteristics, purposes, dimensional regulations and development standards for the zoning district in which the use is proposed of the zoning purposes of the district, the particular site and the surrounding area. Uses stipulated in this Title as requiring a conditional use permit shall only be allowed with prior issuance of such permit by the City Council as described below.

Section 17.26.020 Procedures for Application Processing

A. Who may apply. Both the owner of the property on which the proposed use will be conducted and the operator of the use for which a conditional use permit is required, or their authorized representative(s), shall be party to the application for a conditional use permit.

B. Process. The application shall be submitted on forms provided by the City and shall contain the following minimum information:

   1. Name, address, telephone number, fax number and e-mail address of the property owner and applicant.

   2. Legal description of the property and street address, if applicable.

   3. Lot size, existing zoning and tax schedule number.

4. Description of the proposed conditional use.
5. A plot plan of the property as described in Chapter 17.21.
6. The names and addresses of all property owners of record within four hundred (400) feet of the property in question.

C. Justification as to why the requested conditional use should be approved.

1. Prior to the Planning Commission public hearing, the Zoning Administrator shall request interested City departments and other agencies to comment on the application. Comments received shall be submitted to the Planning Commission.
2. The Zoning Administrator shall study the application and shall make a report of his findings to the Planning Commission.
3. The application shall be processed in the same manner as a request for initial zoning and rezoning, except that approval by the City Council shall be by resolution.

D. Fees. The application shall be signed by the property owner or his duly authorized agent and shall be accompanied by a nonrefundable fee as determined by the City Council to cover costs related to the application.

E. An application shall not be considered accepted until all required information is submitted.

F. Transferable. Conditional use permits allow a particular use for which it is granted to operate on the specific property listed in the permit in accordance with approved plans. A conditional use permit may be transferred to any other person to operate the same use per the same terms of the permit, upon notification to the Zoning Administrator, but may not be transferred to any other property or building.

G. Duration. A conditional use permit shall remain in full force and effect if the use authorized thereby is established within one (1) year of approval and as long as the use for which the permit is granted continues or for the term specified on the permit otherwise it shall be considered null and void.

Section 17.26.030 Standards, Review Criteria, Conditions, and Modifications

A. No approval of a conditional use shall be granted unless the conditional use conforms to the minimum development requirements and regulations of the applicable zoning district. In reviewing the conditional use, the Planning Commission and City Council shall consider the following approval criteria, where applicable:

1. The use is consistent with the intent and purpose of this Title as declared in Chapter 17.01.
2. The use is consistent with the intent of the zoning district in which the applicant intends to locate such use.
3. The use is compatible with other uses in the area and the impacts generated by the use will be abated through the utilization of mitigation measures, such as increased setbacks, screening or buffering.

4. The use consistent with the Fountain Comprehensive Development Plan and other approved plans.
5. The use will not create any adverse environmental influences on the surrounding area. For example: Will the use generate excessive dust, odors, fumes, noise, glare or vibration?
6. The use will not generate traffic hazards or congestion in the area.
7. The use will not overburden existing transportation systems.
8. Ingress and egress points have been appropriately and safely located
9. Provision of adequate water, sewer, drainage, and other utility facilities has been provided.
10. The physical appearance of the site, including building orientation, scale, and architectural treatment and landscaping, is sensitive to other uses in the area.
11. The use is reasonably related to the overall needs of the community and consistent with the intent and purpose of this Title.

B. In reviewing a conditional use application for other uses similar to the permitted uses, but not listed in the zoning district, the Planning Commission and City Council shall consider the development standards in Article III in addition to the review criteria set forth in this Section.

C. In approving an application for conditional use, the Planning Commission or City Council may impose conditions or modifications, which it deems reasonably necessary to secure the intent and purpose of this Title.

Section 17.26.040 Abandonment of Right

Approval of a conditional use in accordance with this Chapter shall expire in one (1) year from date of approval (unless a final site development plan has been approved pursuant to these regulations) if the rights and privileges granted thereby have not been exercised or utilized, or if construction work is involved, the work has actually not commenced on the premises. If, thereafter, any discontinuance of the exercise of any rights or privileges occurs for a continuous period of one (1) year, the conditional use shall be considered abandoned.

Section 17.26.050 Revocation of Conditional Use Approval

A. All conditions or modifications imposed by the City Council shall be maintained in perpetuity with the conditional use. If at any time the conditions or modifications are not complied with by the owner or are found to have been altered in scope, application or design, the use shall be in violation of conditional use approval.

B. If and when any use is determined to be in violation of conditional use approval, the Zoning Administrator shall notify the applicant in writing of said violation and of a thirty (30) day period in which to rectify the violation. The notice shall state a time and place after the thirty (30) day period at which a revocation hearing will be held if the violation is not timely rectified.

C. Within thirty (30) days after notification of violation of conditional use approval, the applicant shall rectify the violation. Upon completion of any required changes, the applicant shall notify the Zoning Administrator in writing that said changes have been made.

D. Failure of the applicant to rectify said violations within thirty (30) days shall be cause for cancellation and revocation of the conditional use approved by the City Council. A revocation hearing shall be conducted by the City Council prior to any revocation. Notice of the hearing shall be provided as required by subsection (B) above. The revocation of the conditional use approval shall require the applicant to vacate the premises of or stop the use authorized by the conditional use approval. After revocation, the applicant may reapply for approval of a conditional use pursuant to the procedures outlined in this Chapter.

E. Resubmittal of Denied Application. Same as the reconsideration requirements for zoning and rezoning requests

Chapter 17.27 Non-Conforming Uses, Structures, Lots And Parking Specifications

Section 17.27.010 Purpose and Intent

The purpose of these provisions shall govern the use and improvement of a non-conforming lot and the modification, expansion, reconstruction, alteration, abandonment and continued occupancy of a non-conforming structure.

Section 17.27.020 Non-Conforming Uses

A. Any use of a building or land lawfully existing at the time of the enactment of this Chapter which does not conform to the regulations of the zoning district in which it is located or with the applicable development standards of this Title is a non-conforming use.

B. Any use in existence at the time of the effective date of this Title on a lot which does not conform with the development standards of the zoning district in which it is located shall be allowed to be continued, provided the use is not discontinued for a period of twelve (12) months or more in which case the use shall be deemed abandoned and such use shall not be renewed except in conformance with all applicable City of Fountain regulations.

C. Non-conforming uses shall strictly comply with the regulations set forth below in this Section, in addition to all other applicable regulations of this Title and the Pikes Peak Regional Building Code.

   1. Existing Manufactured Housing as Non-Conforming Uses. If a manufactured home is used for residential purposes and is not located within a Manufactured Housing Park or Manufactured Housing Subdivision on the date of this Title, or is located on property annexed to the City after the effective date of this Title, the manufactured home shall be subject to all rights and limitations set forth this Title, except as provided herein. If a manufactured home is moved from its location within the RA zoning district, the manufactured home shall not be replaced or relocated except within a Manufactured Housing Park or Manufactured Housing Subdivision, unless it was moved from a location that was zoned RA at the time of removal and the

manufactured home is replaced in the original location within three (3) months' time of its removal, provided the location is still zoned RA, and the manufactured home complies with the requirements of this Chapter.

2. The expansion of a legal non-conforming use is permitted only within a conforming structure and is subject to each of the following conditions:

   a. Any expansion requires a conditional use permit from the Zoning Administrator and shall meet the following criteria:

      i. All areas of expansion must be confined to and conducted wholly within the structure or portion thereof, which is in existence as of the effective date of this Title.

      ii. A maximum of one (1) expansion of a legal non-conforming use existing as of the effective date of this Chapter shall be permitted.

      iii. The expansion shall not increase the gross floor area of the non-conforming use by more than twenty percent (20%), except for existing residential structures expanded within conforming setbacks not resulting in more units than permitted by the zoning district in which such residential use is located.

      iv. All new site improvements necessitated by an expansion shall comply with the development standards of the zoning district in which the use is located or any specific regulations governing the use, if applicable, whichever is more restrictive.

      v. The total number of parking spaces required by this Title for the area of any expansion must be provided in accordance with the parking standards set forth in the Title.

3. Alteration and/or Expansion of Existing Non-conforming Development. Alterations and or expansions to existing development including manufactured housing parks, shall be required to comply as practical and feasible with the City's standards for streets in order to protect the health, safety and welfare of the residents.

D. Any change of a legal non-conforming use to a conforming use shall comply with all requirements of these regulations.

E. Any legal non-conforming use that is discontinued for a period of twelve (12) consecutive months shall be deemed abandoned and shall thereafter be unlawful and may not resume and continue.

Section 17.27.030 Non-Conforming Structures

A. All legal non-conforming structures shall comply with the provisions of the Pikes Peak Regional Building Code and with all other provisions of the Fountain Municipal Code outside the scope of the structure's legal non-conformity(ies).

B. The continued use of any legal non-conforming structure shall be subject to the following conditions:

   1. Continued use of a legal non-conforming structure is allowed if the structure is non-conforming as of the effective date of this Title.

2. If use of a non-conforming structure is ancillary to the primary use on the site, changing the use in the non-conforming structure to any primary use allowed in the zoning district will be considered an increase in intensity of the nonconformance and will not be permitted unless a variance is granted pursuant to these regulations for the non-conforming structure.

3. Expansion by increasing the size of the exterior of a non-conforming structure is permitted if the expansion does not increase the structure's non-conformity and is otherwise done in compliance with all standards and requirements of these regulations. Without limiting the foregoing:

   a. If the structure exceeds applicable lot coverage requirements, expansion shall not be allowed.

   b. If the structure is located on a lot which does not meet the minimum lot area required in the applicable zoning district, expansion may be allowed if it can be accomplished in compliance with all other applicable regulations to the use, including but not limited to; setback, lot coverage, and site development standards.

   c. If the structure is located on a lot and encroaches in a required setback area, expansion of the structure may be allowed only to the extent that the expansion does not encroach into required setback or yard areas.

   d. If the structure's height is nonconforming, expansion is allowed if the expansion does not create any other nonconforming condition and if the newly constructed portion does not exceed applicable height limitations.

   e. If the construction costs do not exceed fifty percent (50%) of the of the latest El Paso County assessed improvement value.

C. If the required number of off-street parking spaces is provided for the proposed expansion in accordance with these regulations.

D. Non-conforming signs shall be regulated as provided in Chapter 17.12.

Section 17.27.040 Alteration, Repairs Or Replacement

A. All interior remodeling or any alteration wholly within a nonconforming structure is allowed if the external configuration of the structure is not changed provided that: such alteration does not create any non-conforming use or situations, does not increase the intensity of the non-conformance as described above, and all other applicable regulations of this Chapter and Title are met.

B. Ordinary repairs and maintenance of a nonconforming structure shall be allowed and are encouraged.

C. Any non-conforming structure extensively damaged by sudden destruction beyond the control of the user or by fire and where reconstruction costs exceed fifty percent (50%) of the latest El Paso County assessed improvement value may be reconstructed or replaced. Such reconstruction shall occur on the same lot and with the same external configuration, only if all provisions of this Title and other provisions of the Fountain Municipal Code are met.

D. Alterations or remodeling of a nonconforming structure which changes the use of the non-conforming structure from an ancillary use to a similar to the primary use shall not be permitted.

Section 17.27.050 Non-Conforming Site Or Lot

A. Non-Conforming Lots of Record. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of this Title in a recorded subdivision approved by the City Council and has less area or width than required in other Sections of this Title, such lot may be occupied according to the permitted uses set forth in the district in which the lot is located. If a non-conforming lot ever comes under the same ownership as a contiguous parcel it shall no longer be the same non-conforming lot and such cessation shall be recorded in the El Paso County Clerk and Recorder's Office, and then no portion of the enlarged parcel shall be sold unless both the portion to be sold and the remainder shall be conforming parcels.

Section 17.27.060 Non-Conforming Parking

A. Any parking spaces and/or access to public rights of way lawfully existing on the effective date of this Title which do not conform to the parking requirements, development standards, and access standards of this Title shall be considered legal non-conforming and may continue, subject to the following:

   1. Expansion of any conforming or non-conforming use or structure shall not be permitted unless the total number of parking spaces provided for any proposed expansions on the site is provided as stipulated in the parking standards set forth in this Title.

   2. Non-conforming parking shall not be expanded or enlarged. When additional parking spaces are necessitated by expansion, modification, change in use or by new uses, all new parking areas shall comply with the development standards of this Title and the access to the lot from public right of ways including access to existing parking areas, shall be brought into compliance with this Title and other standards adopted by the City.

   3. When any addition to or enlargement of an existing building or use, or a change in use increases the building or the developed area of the use or the parking requirements of the building or structure, the parking requirements of this Title must be met and the entire building shall be brought into conformance with all requirements of this Title, including required number of spaces, access, landscaping, lighting, screening, and other applicable standards If and when a residential use is granted a conditional use for a change of use, the change of use shall meet all current parking standards prior to implementation of the use. However, the requirement set forth above shall not apply if the owner in a residential district can demonstrate that the property is used exclusively for one (1) single family dwelling unit. Once the owner of a dwelling in a residential district is granted a conditional use permit, s/he must immediately comply with this Title.

B. All parking and access is subject to permits and requirements of the Fountain Municipal Code or State Highway Access Code.

Chapter 17.28 Environmental Assessment Study

Section 17.28.010 Purpose and Intent

A. The purpose of an environmental assessment study is to determine if a land development proposal may affect to any significant degree the quality of the environment in the City. The provisions of this Chapter achieve the following objectives:

1. To ensure that complete information on the effects of the proposed development is available to the Zoning Administrator, the Planning Commission, City Council and the public.
2. To ensure that long-term protection of the environment is a criterion to be considered in development planning, and that land use and development decisions, both public and private, take into account the relative merits of possible alternative actions.
3. To provide procedures for local review and evaluation of the impacts of proposed projects prior to granting of permits or other authorization for commencement of building and development.

Section 17.28.020 Applicability

A. The Planning Commission or Zoning Administrator may require an Environmental Assessment Study for any land development application. Any of the following conditions shall require an Environmental Assessment Study:

1. A major or unnecessary altering of an ecological unit or landform, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse or other natural landform feature.
2. A direct or indirect impact on an identified wildlife habitat, feeding ground or nesting ground.
3. An impact on the appearance or character of a significant scenic area, cultural or historic resource as identified by the Colorado State Historical Society or other recognized preservation organization.
4. Earth moving or other landform change that will cause landslides, or further the siltation, settlement, or flooding and thereby create a greater hazard to health and safety.
5. Hydrologic conditions, such as surface drainage and watershed characteristics, groundwater and soil permeability characteristics, natural water features and characteristics and any potential changes or impacts.
6. Geologic conditions, such as landforms, slope, soil characteristics, potential hazards and any potential changes or impacts.
7. Circulation and transportation conditions, such as volumes and traffic-flow patterns, alternative transit systems and potential changes or impacts to the region's investment or planned investment in transportation systems.
8. The discharge of toxic or thermally abnormal substance or use of herbicides or pesticides, or the emission of smoke, gas, steam, dust or other particulate matter.

9. Any waste treatment, cooling or settlement pond, or transportation of solid or liquid wastes to a treatment or disposal site.
10. The discharging of significant volumes of solid or liquid wastes.
11. A substantial increase in demand on existing or planned sewage disposal, storm drainage or other utility systems to a level, which is likely to cause an adverse impact on the environment or require new plant investments or improvements.
12. Others as determined by the Zoning Administrator to impede the purpose of this Section.

Section 17.28.030 Environmental Assessment Procedure

A. The range of studies needed to develop the technical data for an environmental assessment study require natural systems and other studies as determined by the Zoning Administrator. Where feasible, studies may include secondary data from such sources as the Colorado Department of Transportation, the Colorado Division of Wildlife, data collected and updated by the Pikes Peak Regional Council of Governments, studies commissioned by the Regional Flood Management District, USGS or other studies. The applicant is responsible for all costs associated with the development and application of an environmental assessment.

B. The environmental assessment study shall summarize the findings and recommendations of the technical and other supporting studies in terms that can be assessed and evaluated by City officials and the general public. Technical data shall be submitted as supporting documentation. Technical data prepared as a part of any other procedure or requirement of this or of any Ordinances or federal, state, county or City regulation also may be used to support the Environmental Assessment Study.

C. Submission. When required, the Environmental Assessment Study, shall be submitted to the Zoning Administrator with any land development application. The Zoning Administrator shall prescribe the number of copies to be submitted. The Zoning Administrator shall transmit the report to applicable federal, state or county agencies for review and comment.

D. Submittal Requirements.

1. The environmental assessment report study shall contain information and analysis, in sufficient detail and adequately supported by technical studies, to enable the Zoning Administrator, Planning Commission and the City Council to judge the impact of the proposal and to judge measures proposed to reduce or negate any harmful impacts. An independent, qualified professional consultant or personnel shall prepare the Environmental Assessment Study.
2. The environmental assessment study shall include a general statement identifying and describing the proposed project and its purpose.
3. To the extent that such items are not otherwise included in other materials submitted with any application or preliminary site development plan descriptive materials, maps and plans shall be submitted showing the following information:

a. Project boundaries and boundaries of the area within which environmental impact is likely to be significant, (may include areas outside of the project boundaries if there is reasonable cause to believe the project is likely to have impacts greater than the project boundaries).

b. Present and proposed uses of the site.

c. Present and proposed zoning of the site.

d. Quantitative information relative to the development, such as site area, numbers of residential units, proposed height and bulk of buildings, building floor area in square feet and such other data as will contribute to a clear understanding of the scale of the development.

e. A list of regulatory or review agencies and the specific regulations to which the proposed development will be subject.

4. The environmental assessment study shall include an inventory, providing reasonably complete information on the environmental setting existing prior to the proposed development and containing sufficient information to permit independent evaluation by reviewers of factors that could be affected by the proposed development.

5. The analysis portion of the environmental assessment study shall assess the following items in reasonable detail:

a. Adverse effects, which cannot be avoided if the proposal is implemented.

b. Mitigating measures proposed to minimize the impact.

c. Cumulative and long-term effects of the proposal, which significantly reduce or enhance the state of the environment.

d. Possible alternatives to the proposed action.

e. Irreversible environmental changes resulting from implementation of the proposal.

Chapter 17.29 Short Term Rental Unit

Section 17.29.010 Purpose and Intent; Definition

A. The purpose of the short term rental unit permit is to facilitate the permitting of short term rental units subject to appropriate restrictions and standards and to allow for varied accommodations and experiences for visitors while retaining the character of existing residential neighborhoods.

B. For purposes of this Chapter, a *short term rental unit* is an area within an existing residential dwelling unit that is defined and approved pursuant to a valid City short term rental unit permit, issued pursuant to this Chapter.

Section 17.29.020 Short Term Rental Unit Permit Required

A. It shall be unlawful for any person to operate any short term rental unit without a valid short term rental unit permit, as approved by the Zoning Administrator.

B. A short term rental unit permit does not run with property, is specific to the person or entity to which it is issued and is non-transferable. Nothing herein shall preclude the management of an approved short term rental unit by a third-party on behalf of the owner.

Section 17.29.030 Applicability

A. An applicant for a short term rental unit permit shall submit a completed application form and shall pay all required fees. The application shall be reviewed and processed administratively by the Zoning Administrator.

B. The permit application shall include:

1. Completed application form;
2. Site plan showing the full extent of buildings and improvements, including parking areas, on the property, depicting the area to be used for the short term rental along with a written narrative confirming compliance with all other standards described below that cannot be depicted on the site plan.
3. The name, address and contact information including a twenty-four (24)-hour contact phone number for the owner or the owner's property manager or agent within the City of Fountain who can be contacted in the event of an emergency and respond within one (1) hour;
4. Proof of insurance;
5. A statement that the owner has read and understands the rules and regulations for a short term rental unit set forth in this part.

C. Inspections. It is the property owner's responsibility to call for all required inspections. The following inspections are required:

1. Inspection of the proposed unit before issuance of license; and
2. An annual inspection is required of the unit prior to renewal.

Section 17.29.040 Short Term Rental Unit Permit Standards

The Zoning Administrator may approve or approve with conditions an application for a short term rental unit permit upon a finding that the unit shall meet the following standards:

A. Sleeping quarters must be located in an area approved for such occupancy and use by the City building inspector.

B. Limit one (1) short term rental unit within each lawful dwelling unit located on a property, up to a maximum of four (4) short term rental units per property; or in the event of condominiums or buildings held in similar common ownership, each owner shall be limited to two (2) short term rental units per property. Entities under common control shall be considered a single owner for the purpose of evaluating ownership of dwelling units.

C. The owner shall maintain weekly residential trash collection services. Garbage/refuse containers shall not be left out at the collection point later than twenty-four (24) hours after collection and property shall be free of trash and debris.

D. The owner shall maintain and provide proof of property liability insurance in the amount of not less than $500,000, or provide proof that property liability coverage in an equal or higher amount is provided by any and all hosting platforms through which the owner will rent the short term rental unit.

E. Short term rental units must remain compliant with all City laws applicable to the premises, including but not limited to planning, zoning, building, fire, health and life-safety regulations.

F. The applicant shall not have had a short term rental unit permit suspended or revoked within the preceding twenty-four (24) months.

Section 17.29.050 Conditions of Approval

The Zoning Administrator, in the context of initial permit approval, and the Planning Commission, in the context of a disciplinary proceeding, may impose such terms and conditions as are reasonably calculated to ensure compliance with the requirements of this Chapter.

Section 17.29.060 Rules and Regulations

It shall be a violation of this Chapter to fail to comply with the following rules and regulations:

A. All short term rental units, owners and operators shall comply with and abide by all applicable City Ordinances and laws, including but not limited to noise, housing and public health Ordinances.

B. Off-street parking areas in private driveways or other authorized parking areas must be provided. Parking shall not occur on-site in non-driveway areas or other areas in which parking is prohibited (i.e. front yard areas, parkways and rear yards).

C. No meals shall be prepared for or served to the short term tenants by the owner or the owner's agents.

D. Occupancy of the short term rental unit shall not exceed the maximum permissible occupancy under applicable building, fire, health and safety codes.

E. The approved City-issued permit, together with all local police, fire and emergency contact information, shall be prominently posted within the short term rental unit.

F. The City issued permit number shall be used in all rental marketing materials.

G. During the term that a short term rental unit is occupied by a short term tenant, the owner and/or the local contact person designated by the owner shall be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of responding within one (1) hour to complaints regarding the condition or operation of the short term rental unit or the conduct of short term tenants. If the local contact person designated by the owner changes, then the owner shall update the permit on file within three (3) days.

Section 17.29.070 Permit Suspension or Revocation

A. The Zoning Administrator may initiate permit suspension or revocation proceedings upon his or her finding that there is probable cause that the unit has been operated, maintained or occupied in violation of this Chapter. The Zoning Administrator shall issue written notice describing such

probable cause and the specific date, time and place of a hearing to be conducted on the same in front of the Planning Commission, to be conducted not less than twenty (20) days after the date of such notice. The notice shall be sent by certified mail, return receipt requested to the owner's mailing address indicated on the application. The notice shall also be posted in a prominent place on the exterior of the short term rental unit.

B. On the specified date, time and place, the Planning Commission shall conduct a hearing on the Notice issued by the Zoning Administrator

C. The Planning Commission may suspend or revoke a permit if it finds, by a preponderance of the evidence, that:

   1. The operation, condition or occupancy of the short term rental unit violates or has violated any provision of this Chapter; or

   2. The owner has violated a condition of approval.

D. The Planning Commission may impose such terms and conditions as are reasonably calculated to cure any proven violations or to prevent such violations in the future, as a part of its action and decision on a permit under this subsection C. The Commission shall issue written findings and decision on any permit subject to a hearing within fifteen (15) days of the conclusion of the hearing. Such findings and decision shall be sent by certified mail, return receipt requested, to the owner's mailing address indicated on the application.

E. Permit suspension or revocation by the Planning Commission may be appealed pursuant to this Chapter.

F. A suspension or revocation shall be effective immediately upon the decision of the Planning Commission or, if appealed, of the City Council. A perfected appeal shall operate as a stay of the Planning Commission decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare

G. Suspension or revocation of a permit may be in addition to any remedy provided for in this Chapter, including but not limited to, the remedies provided in this Chapter.

ARTICLE VI. INTERPRETATION AND DEFINITIONS

Chapter 17.30 General Interpretation

Section 17.30.010 Purpose and Intent

A. For the purposes of this Title, the words and terms used, defined, interpreted or further described herein shall be construed as follows:

1. The particular controls the general.
2. In case of any difference of meaning or implication between the text of these regulations and the captions for each Section, the text shall control.
3. The word shall is always mandatory. The word may is permissive.
4. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
5. Words used in the present tense include the future, unless the context clearly indicates the contrary.
6. The masculine shall include the feminine.
7. The phrase used for includes arranged for, designed for, intended for, maintained for, and occupied for.
8. Where not defined herein, the words used in this Title shall have the common and customary meaning.

Chapter 17.31 Definitions

Section 17.31.010 Meanings Defined

A. As used within this Title, except where otherwise specifically defined, or unless the context otherwise requires, the following terms, phrases, words and their derivations shall have the following meanings:

1. ***Accessory Structure.*** A building or structure on the same lot with the building or structure housing the principal use, but housing a use incidental to and associated customarily with the principal use.
2. ***Administrative Hearing Officer***. Person(s) who is designated by the City Manager to conduct administrative hearings on administrative citations or appeals.
3. ***Adult-Oriented Use.*** A use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises, including, but not limited to:

a. Adult bookstore or gift shop: any establishment which principally sells or rents adult material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written material, video tapes and/or other items or devices;

b. Adult cabaret, restaurant or place of business: a cabaret, restaurant or place of business which features waitresses, waiters, dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers attired in such manner as to display "specified anatomical areas."

c. Adult car wash means any place of business or facility engaged in the washing of motor vehicles that features topless and/or bottomless males or females functioning in any capacity in the operation or management of a car wash.

d. Adult hotel or motel: an hotel or motel in which the presentation of adult material is the primary or principal attraction;

e. Adult mini-motion picture theater: any fully enclosed theater with a capacity of less than fifty (50) persons in which the presentation of adult material is the primary or principal attraction;

f. Adult motion picture theatre: any fully enclosed theater with a capacity of fifty (50) or more persons in which the presentation of adult material is the primary principal attraction;

g. Adult photo studio: any establishment, which, upon payment of a fee, provides photographic equipment and/or models for photographing "specified anatomical areas."

h. Other adult amusement or entertainment: any other amusement, entertainment or business which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

4. ***Adult Material.*** Any material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written materials, video tapes and/or other items or devices which are distinguished or characterized by their emphasis on depicting, describing or relating to "specified anatomical areas" or "specified sexual activities."

5. ***Agricultural Activity.*** Farming,, ranching; the cultivation of products as part of a recognized commercial enterprise; and associated businesses that support agricultural needs, such as veterinarians, nurseries, storage or processing of agricultural products or animals, and riding stables.

6. ***Agricultural Building.*** Any building or accessory structure which is less than thirty-five (35) feet in height and is used for farm operations such as, but not limited to, a barn, grain bin, silo, and farm implement storage building.

7. ***Agricultural Business.*** A commercial facility and/or activity directly related to or resulting from the cultivation of the soil, production of crops or the raising of livestock which are not necessarily produced on the premises, which may also include feed and seed sales and hay sales which would otherwise be classified as retail sales.

8. ***Amendment.*** A change in the wording, context, or substance of Title 17 of the Fountain Municipal Code or a change in the zoning district boundaries.

9. ***Amusement Center.*** An indoor place of business where amusement devices are maintained or operated for commercial purposes.

10. ***Amusement Device.*** A coin-operated device primarily for the entertainment of the customer, the use of which results in electronic or mechanical displays and/or operation, or the production of musical entertainment.

11. ***Animal Farm.*** Land used for the growing, processing, and/or storage of animals, including Animal Feeding Operations (AFO). This includes associated crop preparation, harvesting, and processing activities, such as mechanical soil preparation, irrigation system construction, spraying, and crop processing.

12. ***Animal Feeding Operation (AFO).*** An operation for the growing, feeding and fattening of livestock and/or poultry for commercial purposes, where:

    a. The animals are confined within a closed structure and/or the animals are kept within permanent corrals, pens, or yards;

    b. Food is supplied by means other than grazing, foraging, or other natural means; and

    c. These animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) consecutive days or more in any twelve (12) month period, and

    d. As further defined by the United States Environmental Protection Agency, National Pollutant Discharge Elimination System Regulations (NPDES).

13. ***Animal - Household Pet.*** A small animal customarily permitted to be kept in a dwelling for company or pleasure, including, but not limited to, dogs, cats, pot-bellied pigs, gerbils, hamsters, tropical fish, or common house birds, provided that such animals are not kept to supplement food supplies or for any commercial purpose.

14. ***Animal Unit.*** A unit of measurement that compares various animal types based on the amount of feed they consume and waste that they generate."

15. ***Antenna***. Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

16. ***Applicant.*** The owner or duly authorized agent of land for which an amendment, conditional use, variance, site development plan review, building permit, or certificate of occupancy has been requested.

17. ***Auction.*** A public sale in which real property, personal property or livestock is sold to the highest bidder.

18. ***Auto Service/Repair.*** Establishments primarily engaged in the sale, rental, service, and repair of automobiles and trucks. Uses include freestanding department stores; auction rooms; automobile service stations; repair facilities, car washes; boat, car, trailer, motorcycle showrooms, sales and repair, and other uses which are of the same general character.

19. ***Automobile.*** Any device which is capable of self-propulsion or being otherwise moved from place to place upon wheels or endless tracks, excepting a device moved exclusively upon stationary rails, a device designed to move primarily through the air or a device designed to move primarily through human muscular power. The term includes automobiles, motor vehicles, trucks, recreational vehicles, construction equipment, motorcycles, heavy equipment and similar vehicles.

20. ***Bed and Breakfast Inn.*** A residence which provides temporary overnight lodging for a fee with a minimum of 3 and a maximum of 10 guest rooms

21. ***Boarding and Rooming House.*** A building or portion thereof which is used to accommodate, for compensation, five (5) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word compensation shall include compensation in money, services, or other things of value.

22. ***Building.*** Any enclosed structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

23. ***Building Coverage.*** Any area of a portion of a lot, which is covered by all buildings or structures on that lot.

24. ***Building Height.*** The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the roof surface, if a flat roof; to the deck line of mansard roofs; and to the mean height level between caves and ridges for gable, hip and gambrel roofs.

25. ***Building Permit.*** A permit issued by the Regional Building Department, for building development, after compliance with this Title, the Pikes Peak Regional Building Code and other codes or Ordinances adopted by the City.

26. ***Building, Principal.*** A building in which is conducted the main or principal use of the lot on which said building is situated.

27. ***Business Day.*** Each day of the week excluding Saturdays, Sundays, and holidays recognized by the City under Section 2.14.510 of the Fountain Municipal Code. Half-day holidays shall be treated as a full day holiday.

28. ***Certificate of Occupancy.*** Certificate issued by the Building Department to occupy, or change occupancy in a structure and a finding from the final inspection that the building, structure, or development complies with all provisions of the applicable City codes, permits, requirements and approved plans.

29. ***Change of Use.*** A change from one permitted principal use to another permitted use in the applicable zoning district.

30. ***Chicken Hen.*** A female chicken over the age of 4 months.

31. ***Chicken Run.*** An area surrounded by a fence where chickens are kept.

32. ***Child Care Facilities.*** A facility, by whatever name known, that is maintained for the whole or part of a day for the care of children as defined by the Colorado Child Care Licensing Act as amended per C.R.S. Title 26, Article 6, Section 102 (CRS 26-6-102). This term includes, without limitation, facilities commonly known as family care homes, day cares or day care centers, nursery schools, preschools, day camps, and summer camps.

33. ***Clinic, Medical***. A facility used for the provision of medical, dental, surgical, health or mental health care of the sick or injured, operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination or treatment.

34. ***Commercial.*** An economic activity involving the provision of material goods and commodities or personal or professional skills for economic gain.

35. ***Commercial Accommodations.*** A building or group of buildings containing guest units providing transient accommodations to the general public for compensation, and as an accessory use not more than a single dwelling unit. Includes hotel, motel, tourist home, boarding house, lodging house, and dormitories, but not room and board as an accessory use.

36. ***Commercial Center.*** See Shopping Center.

37. ***Concentrated Animal Feeding Operation* (CAFO).** An operation for the growing, feeding and fattening of livestock and/or poultry for commercial purposes, where:

    a. The animals are confined within a closed structure and/or the animals are kept within permanent corrals, pens, or yards;

    b. Food is supplied by means other than grazing, foraging, or other natural means; and

    c. These animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) consecutive days or more in any twelve (12) month period.

    d. A CAFO is a large or medium AFO, as defined by the United States Environmental Protection Agency, National Pollutant Discharge Elimination System Regulations (NPDES).

38. ***Corral***. An enclosure for confining or capturing livestock, including a pen, riding arena or paddock.

39. ***Commercial Vehicle or Tractor.*** A large vehicle, with a driving cab, engine, and coupling for trailers, weighing more than eighteen hundred (1,800) pounds or has a commercial license.

40. ***Common Open Space.*** A parcel of land or water or combination of both located within the site designated for a planned unit development, designed for leisure and/or recreational use and intended primarily for the use or enjoyment of the residents of the planned unit development. The term shall not include space devoted to streets, parking areas, loading areas and accessory buildings. Such common open space is generally owned and maintained through a homeowner's association.

41. ***Community Center.*** A meeting place used by members of the community for social, cultural, or recreational purposes.

42. ***Comprehensive Development Plan, City of Fountain.*** Unless otherwise stated, it is the comprehensive development plan as adopted by the Planning Commission and approved by the City Council to provide long-range development recommendations, policies, and programs for the community.

43. ***Construction Equipment.*** See definitions of vehicle and heavy equipment.

44. ***Construction Equipment Business.*** An operation, which includes sales, a storage yard, and/or a repair garage for construction equipment.

45. ***Contractor Yard***. A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.

46. ***Crop Farm.*** Land used for the growing, processing, storage, and/or packing of agricultural products such as, but not limited to, vegetables, fruits, grains, seeds, flowers and ornamental crops. This includes associated crop preparation, harvesting, and processing activities, such as mechanical soil preparation, irrigation system construction, spraying, and crop processing.

47. ***Density.*** The number of dwelling units that may be constructed per acre. The calculation of gross residential density shall be performed in the following manner:

    a. Determining the density. The gross acreage of all the land within the boundaries of the development shall be included in the density calculation except:

        i. Land previously dedicated, purchased or acquired for any public use; and

        ii. Land devoted to nonresidential uses such as commercial, office, and industrial or civic uses.

    b. The foregoing gross acreage calculation shall be shown in a table format on the development plan and shall form the basis for calculating the gross residential density.

    c. The total number of dwelling units shall be divided by the gross residential acreage. The resulting gross residential density shall also be shown in a table format on the development plan.

48. ***Detoxification Center.*** A residential facility, which provides twenty-four (24) hour medical supervision, lodging, and meals to individuals who need help to remove the effects of alcohol or drugs.

49. ***Development.*** The act of carrying out any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into 2 or more parcels. When appropriate in context, development shall also mean the act of developing or the result of development.

    a. Development shall also include:

        i. Any construction, placement, reconstruction, alteration of the size, of a structure on land;

ii. Any increase in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;

iii. Any change in use of land or a structure;

iv. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;

v. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land; (f) The demolition of a structure;

vi. The clearing or grading of land as an adjunct of construction;

vii. The deposit of refuse, solid or liquid waste, or fill on a parcel of land;

viii. The installation of landscaping within the public right of way, when installed in connection with the development of adjacent property; and

ix. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

b. Development shall not include:

i. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right of way;

ii. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing in established rights of way any mains, pipes, cables, utility tunnels, power lines, towers, poles, or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;

iii. The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure; (d) The use of any land for an agricultural activity;

iv. A change in the ownership or form of ownership of any parcel or structure; or

v. The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

50. ***Development Agreement.*** An agreement with the City, including a subdivision improvements agreement, which clearly establishes the terms and conditions of the development approval, including the applicant' s responsibility regarding project phasing, the provision of public and private facilities and improvements, and any other mutually agreed to terms and requirements. The agreement may also serve to implement the site specific development plan which establishes vested rights as determined by Section 17.06.030 of these regulations.

51. ***Drinking Establishment.*** A place, which is primarily engaged in the sale of alcohol for consumption in the premises. Drinking establishments shall include nightclubs, beer gardens, breweries, tap and tasting rooms, and bars where no food service is provided by the business.

52. ***Driveway.*** A private access roadway that leads to a single lot.

53. ***Dwelling, Multifamily.*** A building or portion thereof, designed for or occupied by three (3) or more families, living independently of one another and having separate entrances for each dwelling unit. This definition includes townhouses, apartments and condominiums, but not motels or hotels.

54. ***Dwelling, Single Family.*** A detached principal building arranged, designed, and intended to be occupied by not more than one (1) family.

55. ***Dwelling, Two-Family or Duplex.*** A detached principal building arranged, designed and intended to be occupied by not more than two (2) families, living independently of one another and having separate entrances for each dwelling unit.

56. ***Dwelling Unit.*** One or more rooms or structures designed for occupancy by an individual or family for living and sleeping purposes, containing rooms with internal accessibility and no more than one kitchen, for use solely by the dwelling unit's occupants. The word "dwelling unit" shall not include tents, recreational vehicles, trailer coaches, hotels, motels, guest house, mother in law apartment, or other structures designed or used primarily for transient residents.

57. ***Eating Establishment.*** Business primarily engaged in the sale of food. Includes bakeries, delicatessens, coffee shops, fountains, sandwich shops, restaurants, all of which may provide off-site catering services. Alcohol may be served on the premises, however, it shall not be the primary product sold.

58. ***Educational Institution.*** Public schools, non-public schools, and schools administered and operated by the State. The following definitions shall apply to the various types of educational institutions:

    a. Public schools include those schools administered by legally organized school districts;

    b. Non-public schools include all private, parochial and independent schools which provide education of compulsory school age pupils comparable to that provided in the public schools of the State.

59. ***Elderly.*** A person over the age of sixty (60) years.

60. ***Emergency Health Care Facility.*** Establishments having as its sole purpose the provision of emergency health care and emergency medical treatment for human ailments. No overnight accommodations for patients are available.

61. ***Enforcement Officer***. A duly appointed Code Enforcement Officer, City Manager or the City Manager's designated representative.

62. ***Enforcement Order/Compliance Agreement.*** An order from the Administrative Hearing Officer (AHO) or an agreement between the AHO and the responsible party in which a timeframe and other requirements for code compliance are clearly stated, including any penalties for noncompliance.

63. ***Entertainment Facility/Complex.*** Includes one (1) or more of the following: bowling alley, arcades, movie theaters, dinner theaters, skating rinks, billiard parlors, teen clubs, concert or music hall, organizational clubs and other similar uses, not including adult-oriented uses.

64. ***Environmental Assessment Study.*** A report, which may be required of general plans, which assesses all the environmental characteristics of an area and determines what effects or impacts will result if the area is altered or disturbed by a proposed action.

65. ***Exterior Elevations.*** *The front, side and rear exterior walls of a building., indicating grade lines, elevations and heights of all walls, building height, roof materials, parapets, roof pitch, overhangs, scuppers, downspouts and other roof elements such as photovoltaic and chimneys, rooftop mechanical equipment and associated screens, doors, windows, sky lights and light fixtures, decks and associated materials, sign locations and heights, exterior colors and materials.*

66. ***FAA.*** The Federal Aviation Administration.

67. ***Fabrication.*** The construction of a specific good through the assembly of premanufactured parts, which require no processing modification.

68. ***Factory Built Home.*** A single family dwelling which is partially or entirely manufactured in a factory and designed for long-term residential use; built in multiple sections, each on a chassis which enables it to be transported to its occupancy site. Factory built homes must be constructed to the standards of the State of Colorado Factory Built Housing Construction Certification Code (8, CCR 1302-3) and bear a certification insignia in compliance with those standards.

69. ***Family.*** Any number of persons related by blood, marriage, or adoption, a group of not more than five (5) persons who need not be related by blood, marriage, or adoption, or no more than eight (8) developmentally disabled persons and appropriate staff living together as a single housekeeping unit and sharing common living, sleeping, cooking, and eating facilities in a dwelling unit.

70. ***Family Care Home.*** A home, by whatever name known, that is maintained for the whole or part of a day for the care of children as defined by the Colorado Child Care Licensing Act as amended per C.R.S. Title 26, Article 6, Section 102 (CRS 26-6-102).

71. ***Farming.*** Land used for the production of animals, poultry, milk, fur, crops, industrial hemp, trees or sod, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating or harvesting for the production of food or fiber products. See also: Animal Farm, Poultry Farm, Dairy Farm, Fur Farm, Hemp Farm, Ranching, Sod Farm and Tree Farm**.**

72. ***Floodplain.*** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water elevation more than one (1) foot. That part of the flood plain subject to a one-percent (1%) chance of flooding in any given year is designated as an area of special flood hazard by the Federal Insurance Administration. The floodplain includes unstudied areas outside of FEMA-regulated floodplains.

73. ***Flood Insurance Rate Map (FIRM).*** An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

74. ***Floor Area (Gross).*** The sum of the gross horizontal area of all the floors or a building utilized for principal and accessory uses.

75. ***Fowl, Barnyard****.* Domestic poultry normally raised on a farm, including chicken, duck, goose, turkey, pigeon or other similar domestic fowl and specifically excluding rooster, cock, peacock, guinea fowl or other cock.

76. ***Front or Face, Building.*** The outer surface of any building, which is visible from or abuts at its property line, a public or private street, or highway.

77. ***Garage, Private.*** An accessory portion of a main building, designed for the shelter and storage of motor vehicles owned or operated by the occupants of the principal building only and which is not used for the storage, care or repair of motor vehicles for commercial purposes.

78. ***Greenhouse or Nursery, Commercial.*** An enclosed structure used for cultivating plants in a controlled climate for commercial purposes.

79. ***Group Home.*** A state licensed A state-licensed group home for the exclusive use of up to eight (8) persons: (a) with intellectual and developmental disabilities; (b) sixty years of age or older, who do not need nursing facilities; or (c) with behavioral or mental health disorders, as that term is defined in Section 27-65-102, C.R.S. Groups homes for the aged and for the mentally ill shall not be located within 750 feet of another such group home.

80. ***Hazardous Waste.*** Any material, which is defined as such by federal or state law.

81. ***Hazardous Waste Facility***. A facility used for the storage and treatment of hazardous waste.

82. ***Health Care Support Facility.*** A residential facility where lodging, meals and counseling services are provided to families of individuals diagnosed with a terminal illness or an illness requiring long-term hospital care.

83. ***Health/Fitness Club.*** A private facility providing fitness instruction and exercise equipment for use by paying members and/or guests.

84. ***Heavy Equipment.*** Large machinery and equipment used for construction and building purposes. This definition shall include, but is not limited to, bulldozer, tractors, graders, caterpillars, dump trucks and trailers. This term shall also include the term construction equipment. See definition of vehicle.

85. ***Hemp Farm.*** Land used for the growing, processing, storage, and packing of industrial hemp.

86. ***Home-Based Business.*** Any nonresidential use conducted entirely within a dwelling unit and carried on solely by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling unit for dwelling purposes and is considered a gainful occupation or profession conducted as an accessory use in a residential district.

87. ***Home-Based Day Care.*** A state-licensed or legally exempted operation as determined by the Colorado Child Care Licensing Act as amended per C.R.S. Title 26, Article 6 Child Care Centers (CRS 26-6) which is located in the family residence that provides regularly scheduled temporary care for six (6) or fewer children, including those children or adults who reside in the home.

88. ***Home Improvement Center.*** A business, which offers for sale hardware, tools, lumber, electrical and plumbing supplies, or similar construction materials.

89. ***Home Occupation.*** See Home-based Business.

90. ***Industry, Heavy.*** Those industries whose processing of products results in the emission of atmospheric pollutants, light flashes, glare, odor, noise, or vibration which may be heard or felt off the premises, and those industries which constitute a fire or explosion hazard.

91. ***Impervious Surface.*** Any material that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surface shall include any surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

92. ***Industrial or Business Park****.* A group of office, warehouse and/ or light industry uses that are planned and constructed on the same or adjacent lots as a total entity that may have common architectural design, landscaping and signage in accordance with an approved plan.

93. ***Industry, Light.*** Those industries whose processing or products results in none of the conditions described for heavy industry.

94. ***Institutional Use.*** A general term meant to encompass a variety of public and quasi-public uses such as educational facilities, religious institutions, hospitals, libraries, cemeteries and various governmental facilities.

95. ***Junk.*** Any used broken, discarded, or abandoned materials. This term shall include wood, paper, glass, rags, rubber, metal, concrete or other personal property, whether of value or valueless, and which may or may not be partly or wholly assembled into motor vehicles, machinery or other useful objects of any kind. It shall also include motor vehicles, appliances and any parts thereof, which are no longer in an operable condition, and mobile homes or travel trailers which are abandoned, being dismantled or partially dismantled.

96. ***Junkyard or Salvage Yard.*** The use of any lot or tract of ground for the sale, storage, display, dismantling, demolition, abandonment or discarding of junk in the open air.

97. ***Kennel.*** Any building, structure or open space used in whole or in part for the purpose of boarding, breeding or sale of household pets or for the raising or harboring of more than four (4) dogs above the age of four (4) months.

98. ***Landscaped Area or Landscaped Strip.*** A defined area within a parcel of land or along or within a right of way that is dedicated to permanent landscaping, which does not contain a building or structure, other than those allowed per this Title and which area may not include areas that are only grass. Landscape materials shall include but not be limited to shrubs, trees, ornamental grasses, mulch, stone or similar matter.

99. ***Landscaping.*** The improvement of a parcel of land with any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or lawns; natural features and non-living ground covers such as rock, stone and bark; and structural features, such as foundations, reflecting pools, art works, screening, fences and benches that are native or adaptable to the climatic conditions of the City of Fountain area.

100. ***Livestock, Domestic****.* Any farm animal customarily kept by humans for the purpose of providing food, clothing, or work and for the purposes of this Title, limited to swine, sheep, cattle, horses, mules, goats, rabbits and barnyard fowl, but not including household pets.

101. ***Lot.*** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, area, and to provide such yards and other open spaces as are required by this Title. Such lot shall have frontage on an improved public street, and may consist of:

    a. A single lot of record.

    b. A portion of a lot of record.

    c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

    d. A parcel of land described by metes and bounds.

102. **Lot Area.** The area of a horizontal plane bounded by the front, side and rear lot lines.

103. ***Lot Depth.*** The distance between the midpoints of the front lot line and the mid-point of the rear lot line.

104. ***Lot Line, Front.*** That boundary of a lot, which abuts a dedicated public street. In the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the Regional Building Department.

105. ***Lot Line, Rear.*** The line opposite the front lot line.

106. ***Lot Line, Side.*** Any lot lines other than the front lot line or rear lot line.

107. ***Lot of Record.*** A lot, which is part of a subdivision recorded in the office of the El Paso County Clerk and Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

108. ***Lot Width.*** The distance parallel to the front lot line, measured between side lot lines at the front building setback line.

109. ***Manufacturing.*** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

110. ***Manufactured Home.*** A structure which is designed primarily for long-term occupancy as a residence, is partially or wholly manufactured in a factory or at a location other than the site of the completed home, contains sleeping areas, a flush toilet, a tub or shower bath and kitchen

facilities, has plumbing and electrical connections provided for attachment to outside systems, is transportable in one or more sections, can be installed on a permanent foundation, and meets all established snow loads. "Manufactured home" does not include park trailers, camper trailers, travel trailers, or other similar vehicles.

a. ***Type I:*** A manufactured home which is transportable in two or more sections, has brick, wood or cosmetically equivalent exterior siding and a pitched roof, is not less than 24 feet wide at its narrowest dimension and 36 feet long and has a minimum floor area of 1000 square feet, and is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. 5401 et seq., as amended, and all regulations enacted pursuant thereto or is certified by the State of Colorado as being in compliance with the requirements of the uniform building code as adopted by the State of Colorado and enforced and administered by the Colorado Division of Housing.

b. ***Type II:*** A single-section manufactured home which is designed to be transported on its own or detachable wheels or on a trailer, is eight (8) feet or more in width at its narrowest dimension and 32 feet or more in length, and bears a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Except where the context requires a different interpretation, "Type II Manufactured Home" shall be deemed synonymous with "Mobile Home."

111. ***Manufactured Housing Park.*** A parcel of land containing two or more spaces with required improvements and utilities that are leased for the long-term placement of manufactured homes.

112. ***Manufactured Housing Subdivision.*** A parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a single family manufactured home or single family factory built home.

113. ***Mining Operation.*** Activities conducted on the surface or underground for the exploration, development or extraction of minerals and natural resources including, but not limited to, sand, gravel, top soil, limestone and coal from their natural occurrences and the cleaning, concentrating, sorting, crushing, refining or other processing or preparation and locating for transit of crude natural products at or near the mine site.

114. ***Modular Structure.*** A factory fabricated, transportable building or major component designed for use by itself or for incorporation with similar units on-site into a structure for residential, commercial, educational, or industrial use. Their lack of an integral chassis or permanent hitch to all future movement and permanent placement distinguishes them from manufactured housing.

115. ***Mobile Home.*** See definition for Manufactured Home. Except where the context requires a different interpretation, "Mobile Home" shall be deemed synonymous with "Type II Manufactured Home."

116. ***Mobile Home Park.*** Any park, trailer park, trailer court, camp, site, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations

for any mobile home, manufactured home or factory built home and upon which any mobile home, manufactured home or factory built home is parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the mobile home park and its facilities or not. Mobile Home Park shall not include automobile or trailer sales lots on which unoccupied trailers or mobile homes are parked for purposes of inspection and sale.

117. ***Mobile Home Subdivision.*** A parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of single family mobile homes, manufactured homes and factory built homes. Such a subdivision shall not be included in the definition of a Mobile Home Park.

118. ***Nursing Home.*** A state licensed health care facility which provides essential care on a twenty-four (24) hour basis by medical professionals to provide short term convalescent or rehabilitative care or long term care to individuals who by reason of advanced age, chronic illness or infirmity are unable to care for themselves.

119. ***Office, Administrative, Business or Service.*** Use of a site for business, professional, or administrative offices excluding medical offices. General offices are characterized by a low proportion of vehicle trips attributable to visitors or clients in relation to employees. Typical uses include real estate, insurance, management, travel, or other similar business offices; organization and association offices; law, architectural, engineering, accounting, telemarketing or other professional offices.

120. ***Open Space***. That portion of a site which is left in its natural state or specifically designated to be used for recreation, resource protection, agriculture, greenbelt or amenity and is not covered with structures, roads or parking areas. The types of lands and reasons for preservation include, but are not limited to the following:

    a. ***Health and Safety.*** Lands that may be needed for the health and safety of the community: areas required for the recharge of groundwater, reservoirs and surrounding lands, lands with vegetation ensuring better air quality, high wildfire danger zones, steep slopes, floodplains, buffers around airports and similar facilities.

    b. ***Community Resource.*** Lands that might be a resource for the community: farmland, rangeland, lakes, streams, rivers, wetlands, forests, mines, etc.

    c. ***Ecological Value.*** Lands that might be ecologically valuable areas: habitat for animals and plants, unique ecosystems, etc.

    d. ***Diversity of Activities.*** Lands that could provide a diversity of activities for the public: public parks, areas with outstanding historical, educational, cultural, or archaeological value, areas providing access to rivers and streams.

    e. ***View sheds.*** Lands that may provide view sheds and/or aesthetically pleasing experiences: lands that provide aesthetic relief and pleasure to the public.

    f. ***Community Separators.*** Lands that may provide or act as community separators providing a buffer between communities.

121. ***Open Space, Residential.*** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

122. ***Open Space, Nonresidential.*** The gross area of a lot or tract of land minus all streets, driveways, parking lots, and building areas, which is to be or has been landscaped or developed for use by the public, owners or tenants of the lot or tract of land for private, common, or public enjoyment. Open space may include landscaping, internal walkways, bike paths, pedestrian access and outdoor seating areas.

123. ***Owner, Lessee, or Occupant.*** One who owns, leases, or occupies any lot or parcel of land in the City or any agent, manager, tenant, representative, or employee of such owner, lessee, or occupant, having control of any occupied or unoccupied lot or parcel of land in the City, including, without limitation, public and utility easements and drainage ways within such property.

124. **Parcel.** A designated area of land which is not part of a subdivision plat that has been created by deed, survey map, or exemption and recorded in the office of the Clerk and Recorder. A parcel is described by metes and bounds

125. ***Parking Area.*** The total area encompassed by off-street parking spaces, which are available to customers, employees, residents, and visitors to the designated area, with our without time limits, as well as the total area encompassed within all access and egress routes designed for use by motor vehicles. A parking area includes emergency access lanes and loading area spaces.

126. ***Parking Facilities.*** An area, striped for parking that is primarily used for parking vehicles for any given period. Related facilities and definitions include but are not limited to the following:

    a. ***Surface Parking Lot.*** An uncovered, off-street, hard-surface lot striped for parking.

    b. ***Parking Garage.*** A parking lot, typically multi-level, that offers covered parking.

127. ***Pasture.*** An area of land on which there is a growth of forage that animals may graze. Pastures may include fencing only for rotating livestock while grazing but will not allow fencing for corral purposes.

128. ***Perimeter Landscape Area.*** A minimum landscaped strip on private property along the entire perimeter area adjacent to a public street right of way. The required landscape strip shall be measured from the property line. Driveways and sidewalks may traverse this area in order to allow limited access.

129. ***Person.*** The word person shall also include association, firm, co-partnership or corporation.

130. ***Pikes Peak Regional Building Code.*** The currently adopted edition of the Pikes Peak Regional Building Code and secondary codes refereed to therein as adopted as the Building Code of the City of Fountain, Colorado as adopted under Chapter 18.01 (Building) of Title 18 (Building) of the Fountain Municipal Code which regulate building and construction

131. ***Place of Worship.*** See definition for Religious Institution.

132. ***Planned Unit Development (PUD).*** A development to be construed by a single owner or group of owners acting jointly, involving a related group of buildings and associated uses planned as an entity and developed and regulated as one complex land unit rather than as a mere aggregation of individual buildings located on separate unrelated lots. A planned unit development consists of, at a minimum, a map and adopted Ordinance setting forth the regulations governing, and the location and phasing of all proposed uses and improvements to be included in the development.

133. ***Poultry Farm.*** An agricultural operation where chickens, turkeys, ducks, geese, or other domestic fowl are kept, raised, bred, or slaughtered for eggs or meat for the purposes of commercial sale.

134. ***Preliminary Site Development Plan.*** A proposed site plan and any accompanying materials as required by this Title, which provides sufficiently detailed information so that the applicant and City of Fountain may reach preliminary agreement as to the form and content of the plan within the objectives of this Title.

135. ***Property.*** In reference to real property means any occupied or any unoccupied lot or parcel of land in the City including, without limitation, public and utility easements and drainage located within any lot or parcel of land in the City.

136. ***Public View***. Public view means visible from the street or other public right of way. Upon complaint to the enforcement officer by an owner, occupant or lessees of a lot or parcel, public view includes being visible from the owner's, occupant's or lessee's lot or parcel of land.

137. ***Race Track.*** An establishment which provides a course for racing animals or motor vehicles, an area for spectators, stables or kennels for animals and parking lots.

138. ***Recreational Area/Facility.*** A place designed and equipped for the conduct of sports, leisure time, activities, and other customary and usual recreational activities.

139. ***Recreational Vehicle.*** A vehicle used for temporary habitation and used for travel, vacation, and recreation purposes. This term shall include, but is not limited to, travel trailers, campers, motor homes, truck campers, and similar vehicles. Should be compliant with ANSI RVIA Standards.

140. ***Religious Institution.*** An establishment primarily for the conduct of religious activities, limited to sanctuary, educational classrooms, daycare, committee and office work, a single parsonage/rectory, or religious camp. This term includes the terms church, temple, seminary, retreat, monastery, and similar terms.

141. ***Repair Garage.*** A building used for vehicle repair and accessory storage or parking of vehicles, which are awaiting service or pickup, but excluding automobile body and paint shops and the storage of junk vehicles. The term includes more specific repair garages for particular vehicles such as automobile repair garage, recreational vehicle repair garage, and truck repair garage.

142. ***Responsible Party.*** Responsible party means a person or entity who is suspected of violating the Zoning Ordinance of the City of Fountain, Title 17 of the Fountain Municipal Code, or in the case of property violations, the responsible party may also be the property owner, the occupant,

or an individual or an entity who, acting as an agent or in any other legal capacity on behalf of the owner has authority over property subject to an administrative citation under this Title.

143. ***Restaurant.*** An establishment whose primary business is the sale of food in a ready to consume state and may also sell alcoholic beverages.

144. ***Retail Sale.*** A sale to the ultimate consumer for direct consumption and not for resale.

145. ***Retirement Home.*** A residential facility other than a hotel, where for compensation paid either directly or indirectly, lodging and meals are provided for the elderly (over sixty (60) years old). No continuous medical or personal care is provided by the operators of the home.

146. ***Self-Storage Facilities.*** A building or portion thereof dividable into separate compartments, which are individually rented or leased for storing the renter's or lease holder's property. Goods stored within the self-storage facility shall not be offered or displayed for sale at the facility. Accessory uses may include the exterior storage of camping trailers, motorized homes, boats, etc., in areas designated and approved for such storage.

147. ***Service Station.*** An establishment which provides routine daily service and maintenance to vehicles including, but not limited to, gasoline filling, oil changes, tune-ups, engine lubrication, tire changing and repair and muffler repair, but does not include removing engines or transmissions, painting or body work.

148. ***Services, Public.*** Public services include fire protection and suppression, law enforcement, public health, education, civic and art, recreation, environmental protection, and other governmental services. This includes fire and police stations and their associated training facilities, public health and ambulance facilities, municipal administration buildings and public educational institutions.

149. ***Setback.*** The shortest distance between a front property line and the building restriction line or structure projected to the side lot lines, and including driveways and parking areas, except where otherwise restricted by this Title.

150. ***Shelter, Homeless.*** A residential facility, which provides temporary group lodging and meals to individuals in need due to poor economic circumstances or social disability.

151. ***Shopping Center.*** A group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

152. ***Sign.*** Any material, structure, or device, or part thereof, composed of letter or pictorial matter, or on which lettered or pictorial matter is placed when used or located outside or on the exterior of any building, including an inside window display area, for display of an advertisement, announcement, notice, directional matter, or name; and includes sign frames, billboards, readerboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs; and also includes any announcement, notice, directional matter, or name; and also includes any announcement, declaration, demonstration, display, illustration, or insignia used to advertise or promote the interest of any person or business when the same is placed in view of the general public.

153. ***Site Development Plan/Final Development Plan.*** A detailed graphic representation drawn to scale of a proposed development which depicts the specific land uses, site design, and dedication requirements for the property utilized for purposes of establishing vested rights. The site specific development plan provides information including, but not limited to, the building locations and exact footprints, parking areas and designs, ingress or egress, access and utility easements, a detailed landscape plan and location and size of signage. The approved site specific development plan becomes the official plan for the property and is the final site plan submitted with the request for a vesting of property rights. Physical development of the property shall be in strict conformance with the approved site specific development plan. A final plat for a residential subdivision shall constitute a site specific development plan.

154. ***Solid Waste.*** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial or commercial operations or from community activities. Solid waste does not include any solid or dissolved materials in domestic sewage, or agricultural wastes, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under the provisions of the Colorado Water Quality Control Act, Article 8 of Title 25, C.R.S., or materials handled at facilities licensed pursuant to the provisions on radiation control in Article 11 of Title 25, C.R.S.

155. ***Solid Waste Disposal Site and Facility.*** The location and facility at which the deposit and final treatment of solid wastes occur.

156. ***Special Event.*** An event or happening organized by any person which will generate or invite considerable public participation and/or spectators for a particular and limited purpose and time, including, but not limited to, fun runs and walks, rodeos, parades, carnivals, shows, exhibitions, circuses and fairs. Special events are not limited to those events conducted on the public streets but may occur entirely on private property.

157. ***Stable, Commercial Riding.*** A building where horses are boarded for remuneration and/or where horses are kept for sale or hire.

158. ***Stable, Private.*** A building where horses are boarded and owned by the occupant of the premises and are not kept for remuneration, sale or hire.

159. ***Storage Areas, Outdoor.*** The keeping outdoors of any equipment, goods, material, merchandise, or supplies, in the same place for more than twenty-four (24) hours.

160. ***Striping.*** The act or process of marking or delineating parking spaces. All required off-street parking and loading spaces shall be marked and maintained with durable paint in stripes a minimum of two (2) inches wide and extending all but one (1) foot of the length of the parking space.

161. ***Structure.*** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes and signs, but do not include fences or walls seven (7) feet or less in height.

162. ***Structure, Non-Conforming.*** Any legally existing structure which does not conform to the regulations of these regulations, either at the effective date of this these regulations or as a result of subsequent amendments which may be incorporated herein.

163. ***Structural Alteration.*** Any change which would tend to prolong the life of the supporting members of a structure, such as bearing walls, columns, beams, girders, floor or roof joists.

164. ***Structural Height.*** The vertical distance measured from grade to the highest point of the structure. It does not include onsite built structures.

165. ***Structural Setbacks.*** A line marking the minimum distance a building may be erected from a street, alley, or lot line, as measured from the nearest line or point of the building, including eaves, cantilevered areas, or other extensions from the main portion of the building.

166. ***Tiny Home***. A unit built on a permanent chassis, with no attached motor as the means of propulsion, constructed to HUD or IRC Standards as regulated by the State Division of Housing, to be used as a dwelling unit with the exterior appearance of a single family dwelling unit.

167. ***Trash Transfer Station.*** A facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of collecting vehicle and placed into another.

168. ***Tree Farm.*** Land used to raise or harvest trees for wood products, such as lumber, posts and poles, fuel wood, and Christmas trees where forest products are sold on-site or transported to market. Tree farms typically operate on a production cycle of ten years or less.

169. ***Truck.*** See definition of automobile.

170. ***Truck Stop.*** An establishment that provides maintenance, repair, storage and other services to commercial vehicles and their drivers, which may include but are not limited to fuel, accessory or parts sales, overnight accommodations, restaurant facilities, or any combination thereof.

171. ***Trucking Terminal.*** A facility designed or intended to be used for the receiving or discharging of cargo and providing for the temporary or permanent storage of the conveyance vehicle.

172. ***Use.*** The purposes for which land or a building is designed or intended or for which either land or a building is or may be occupied or maintained.

173. ***Use, Accessory.*** A use subordinate to and exclusively for a purpose incidental to the principal use on the lot. Such uses shall not substantially alter the character of the permitted principal use or structure.

174. ***Use, Conditional.*** A use other than those permitted which must meet certain conditions to insure compatibility with the land uses in a zoning district before such a use may be approved and permitted by the City Council.

175. ***Use, Principal.*** The primary purpose or function that a lot serves or is intended to serve.

176. U***se, Temporary.*** A seasonal, short-term or transient land use allowed on a property on a temporary basis.

177. ***Useable Open Space.*** Ground area, which satisfies visual, recreational, and psychological, needs of residents in a development for light and air. Useable open space may include, but is

not limited to, lawns, vegetation, open balconies, open patios, walkways, active and passive recreational areas, fountains, swimming pools, wooded areas, water surfaces, floodplains, drainage-ways, steep slopes and drainage detention areas. Useable open space does not include public rights of way, parking lots, driveways, or buildings and structures. Such space shall be available for entry and use by the residents involved.

178. ***Utility Facilities.*** Buildings, telephone exchanges, sewage pumping stations, gas, water and electrical substations, regional storm drainage detention facilities and similar facilities located on a specific site and necessary for the operation of a utility. This definition includes major utility facilities and minor utility facilities.

179. ***Utility Facilities, Major.*** Facilities which potentially have a significant impact on adjacent properties, such as administrative offices and operation centers; electric generation facilities; oil and gas transmission facilities; overhead electrical transmission lines, sewage treatment plants; or sanitary landfills.

180. ***Utility Facilities, Minor.*** Facilities which do not potentially have a significant impact on adjacent properties and are necessary to provide essential services, such as substations (transmission and distribution); pump stations; water towers and reservoirs; public wells; outfalls; catch basins, retention ponds; water treatment facilities; overhead distribution lines and poles; underground lines and pipes, including water, gas or wastewater trunk lines; transformers and regulator stations; private on-site facilities, such as septic tanks, wells and well houses, etc.

181. ***Variance.*** A modification of the regulations of these regulations as applied to a specific property when authorized by the Board of Adjustments after finding that the literal application of the provisions of these regulations would cause undue and unnecessary hardship in view of the facts and conditions applying to a building or lot.

182. ***Vehicle.*** See definition of Automobile.

183. ***Vehicle Stacking.*** The minimum required length of an on-site drive aisle necessary to allow for the movement of vehicles within a parking lot to a drive-up window service or other drive-through services without impeding the flow of traffic on-site and off-site. Vehicle stacking distance shall be measured from the point of service and within a designated drive aisle. The required vehicle stacking distance may be distributed between accesses serving the site, provided a minimum vehicle stacking distance of twenty feet is provided at each access point.

184. ***Vested Property Right.*** The right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan.

185. ***Veterinary Clinic.*** Establishments engaged in providing veterinary medical services to small animals, household pets and livestock, and in which animals are boarded only during the duration of medical treatment.

186. ***Visibility Clearance at Intersections (Visibility Triangle).*** A space, triangular, on a corner lot, in which nothing shall be built, placed, or grown in a way that would impede visibility. Its purpose is to assure that vehicles and pedestrians have adequate safe visibility. The cut-off is usually defined by either a straight line or a curved line, joined at specific distances from the corner.

187. ***Warehouse.*** A building, or portion thereof, used and appropriated by the occupant for the deposit and safe keeping or selling of his own goods at wholesale or by mail order, or for the purpose of storing the goods of others placed there in the regular course of commercial dealings and trade to be again removed or reshipped.

188. ***Wholesale.*** The sale of goods to a retailer.

189. ***Yard.*** That portion of the open area on a lot extending open and unobstructed from the ground upward, except as otherwise provided in this Title.

190. ***Setback, Corner Lot.*** Required front setbacks from a corner lot are measured from the shortest property line abutting the street right of way.

191. ***Yard, Front.*** Measured from the property line abutting the street right of way (see Setback Corner Lot for corner lots).

192. ***Yard, Rear.*** A yard opposite the front yard and extending the full width of the lot between the rear most portion of the principal building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the nearest portion of the principal building.

193. ***Yard, Side.*** A yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and the principal building.

194. ***Zoning Administrator.*** Includes the Zoning Administrator's designee.