

TITLE 17

ZONING

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ARTICLE I. GENERAL PROVISIONS

Chapter 17.10 Introductory Provisions

Section 17.100 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 17.101 Purpose of Provisions. 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 17.102 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 17.103 Jurisdiction. Provisions of this Title shall be effective within the incorporated limits of the City of Fountain.

Section 17.104 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 17.105 Relationships to the Fountain Comprehensive Development Plan. It is the intent of the planning commission and city council that this title implements the planning policies adopted by the planning commission and 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. The city hereby expresses its intent that neither this Title nor any amendment to it may be challenged based on any alleged nonconformity 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 17.106 Severability. 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 17.12 Application of Regulations

Section 17.120 Application to Developments in Process

A. Except as otherwise set forth in Section 17.53, Planned Unit Developments, all applications for development initiated on and after January 3, 2002 shall be reviewed pursuant to the review process and standards set forth in this title, as revised by Ordinance No. 1048 and effective on that date. All applications for development submitted for review prior to January 3, 2002 shall be reviewed pursuant to the process and under the criteria set forth in applicable portions of this title in force prior to the effective date of Ordinance No. 1048.

B. No building or structure shall be erected and no existing building or structure shall be moved, altered or extended, nor shall any land, building, or structure be used for any purpose other than as provided for among the uses hereinafter listed in the district regulations for the zoning district in which such land, building or structure, is located.

C. No building or structure shall be erected nor shall any existing building or structure be moved, altered or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the dimensional regulations, district development standards and supplementary regulations or other provisions hereinafter provided in the district regulations for the zoning district in which such building, structure, or open space is located.

D. The General Regulations and Development Standards, Article III of this title shall apply to all uses as follows:

1. New buildings and uses of land: Additions involving expansion of the gross floor area of any structure by twenty percent (20 %) or more above than in existence prior to the effective date of this title.
2. A change of use: Prior to issuance of a building permit, conditional use permit, or granting of a change in use, the applicant shall demonstrate that the property will comply with all applicable regulations in this title.

E. All buildings, parking areas, landscaping, signs, and other improvements regulated by the development standards in this title shall be constructed and installed in accordance with the approved plans filed with the City of Fountain, prior to issuance of a certificate of occupancy for the building or use or prior to establishment of the use in absence of a Certificate of Occupancy.

F. 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 cashiers checks, performance bonds or other methods as deemed appropriate by the Zoning administrator to assure eventual compliance with this title.

G. Every building shall be located and maintained on a "lot" or "parcel" as defined in this title. All lots or parcels shall have a principal permitted use or structure prior to any accessory uses or structures being located on the lot. In no case shall an accessory use or structure be located on a lot or parcel prior to construction of a principal use or structure.

H. 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.

Section 17.121 Denial of an Application Based on Past Applicant Performance

- A. City approval of any kind under this Title may be denied to an applicant who:
1. Has not complied with all relevant statutory, codes, or ordinances.
 2. Has failed to pay all fees, charges, taxes, or other debts or obligations that are due from the applicant and payable to the City regarding any matter.
 3. Is not in compliance with conditions of approval regarding previous City approvals that have been granted to the applicant for any matter.

B. The zoning administrator may withhold authorization for the issuance of building permits on any project when it has been determined that the applicant is in violation of any requirement or condition relating to the development. The Zoning Administrator shall not release building permits until the applicant has provided sufficient safeguards to assure compliance with City requirements within a reasonable time after the City approval.

Chapter 17.14 Vested Rights

Section 17.140 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. For detached one-family and two-family dwelling units, the final plat shall constitute a "site specific development plan."

Section 17.142 Requests to Vest. In the event an applicant for site development approval 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.

Section 17.144 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 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.

Section 17.146 Vested Rights by Separate Agreement

A. 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:

1. The project will be clearly and significantly reduced impacts on the existing infrastructure.
2. 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.
3. 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.
4. 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.
5. The project will make special contributions that are clearly in the public interest.

B. Subsequent Reviews. Such agreement shall provide for subsequent reviews and approvals by the city council to insure compliance with the terms and conditions of the original approval.

C. 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.

D. 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.

E. 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 17.16 Interpretation and Enforcement

Section 17.160 Interpretation

A. In the application and interpretation of the provisions of this title, the provisions of this title shall be held to be the minimum requirements. Where regulations for any overlay zoning district or specific regulations of a particular zoning district or general regulations of this title differ for a specific condition, the more restrictive shall apply, except as approved and documented within a planned unit development.

B. For words not defined in the adopted City of Fountain Municipal Code, the words used in this title shall have the common and customary meaning.

C. The Zoning administrator or his authorized representative shall be charged with the clarification of the intent of all provisions of this title.

Section 17.161 Enforcement

A. It shall be unlawful to erect or construct any building unless each lot is provided with vehicular access to a dedicated public street. Access to and from any lot may occur by a shared private driveway easement or private street.

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

C. 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 Zoning Administrator. Building or construction permits may be issued for foundation only and for super-structures at the discretion of the zoning administrator provided that the applicant justifies a significant hardship.

D. 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.

E. 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 any necessary permits, approvals, or variances as prescribed by these regulations, who does not comply with permit, approval, or variance requirements, who acts outside the authority of the permit, approval or variance, or who otherwise violates any of the provisions of these regulations, may be enjoined by the city from engaging in such activity and may be subject to the actions described below:

1. All building permits shall be issued in conformance with the Fountain Municipal Code, ordinances and regulations of the City including the Pikes Peak Regional Building Code.
2. 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. A copy of all certificates of occupancy shall be filed by the building official and may be available for examination by any person with either proprietary or tenancy interest in the property or building.

F. The zoning administrator is authorized 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 17.162 Persons Liable. The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this title may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided. The owner or any person in possession of any property used in violation of this title shall also be held responsible for any violation thereof whether or not the owner or person in possession or any agent thereof committed the violation or has neglected to prevent the violation by another person.

Section 17.163 Remedies. In case any building or structure is erected, constructed or reconstructed, altered, or repaired, converted or maintained, or in case any building, structure or land is used in violation of this title, or other regulation made under authority conferred hereby, the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, or repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business, or use in or about such premises. The remedies herein provided are cumulative and in addition to the imposition of any penalty under this Chapter shall not preclude the City from instituting any appropriate action or proceeding to require compliance with the provisions for this Title and with administrative orders and determinations made hereunder.

A. Penalties specified in this title shall be cumulative and nothing shall be construed as either prohibiting or limiting the city from pursuing such other remedies or penalties in an action at law or equity.

B. Until amounts due under this Chapter, not pending appeal, have been paid in full, the City shall not issue or renew any license or permit of any kind to a responsible party.

C. Failure to pay outstanding amounts due under this Chapter, that are not pending appeal, shall be grounds for suspension or revocation of any license including but not limited to: building, conditional use, any certificate of occupancy or other permit issued by the City.

Section 17.164 Investigation. The enforcement officer is hereby authorized to investigate any matter at any place within the City and which reasonably appears to be in violation of the provisions of this Title. Except upon a citizen complaint, the enforcement officer shall have no obligation to investigate violations which are not in public view as defined in this Chapter.

Section 17.165 Right of Entry

A. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter such officer may enter premises at all reasonable times to inspect it or to perform any duty imposed upon the enforcement officer by this Chapter. If such building or premises is occupied, the officer shall first present proper credentials and request entry. If such building or premises is unoccupied, the Enforcement Officer shall first make a reasonable effort to locate the owner, lessee or occupant and request entry. If such entry is refused, the officer shall give the owner, lessee or occupant written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. If the owner, lessee or occupant cannot be located after a reasonable effort the officer shall post upon a conspicuous place upon the premises, a

written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the owner, lessee or occupant has the right to refuse entry and that in the event such entry is refused, or the officer has been unable to obtain permission of the owner, lessee or occupant, inspection may be made only upon issuance of a search warrant by a municipal judge of the City.

B. The enforcement officer may appear before the municipal judge and, upon a showing to the judge that grounds for the search warrant exist or that there is probable cause to believe that they exist, shall obtain a search warrant entitling such officer to enter upon the premises, using such reasonable force as may be necessary to gain entry. Such search warrant may, but is not required to, authorize the enforcement officer to search for and seize property. The officer applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to act. Any municipal judge of the municipal court of the city shall have the power to issue search warrants pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure.

C. When the enforcement officer shall have first obtained a search warrant or other remedy provided by law to secure entry, no owner, lessee or occupant shall fail or neglect, after proper request is made, to promptly permit entry by the enforcement officer for the purpose of inspection and examination pursuant to this Chapter.

Section 17.166 Request for Compliance

A. The purpose of this section is to authorize the enforcement officer flexibility to work with the responsible party for correction of violation of this Title without the issuance of an administrative citation.

B. If, after an investigation, the enforcement officer has reason to believe that real property is being maintained in violation of this Title, the enforcement officer may notify the responsible party of the violation verbally, in writing or electronically of the violation.

C. The enforcement officer may confer with the responsible party for correction of the violation, establish a date for correction of the violation and establish terms under which the violation shall be corrected. After conferring with the responsible party, the enforcement officer may extend the date for compliance by the responsible party and change the terms under which the violation shall be corrected.

D. The enforcement officer may enter into a written agreement with the responsible party if determined appropriate by the enforcement officer for correction of the violation.

Section 17.167 Administrative Citation.

A. If the enforcement officer has used the process set for a request for compliance under section 17.166 of this Title, and if the violation of this Title has not been corrected by the responsible party, the enforcement officer may issue an administrative citation.

B. A request for compliance as authorized under section 17.166 of this Title, is not required as a prerequisite for the issuance of an administrative citation.

C. If, after an investigation, the enforcement officer has reason to believe that property is being maintained in violation of this Title, the enforcement officer may issue an administrative citation.

D. An administrative citation shall either be personally served or sent by first class mail to the responsible party for property in violation of this Title. Service by mail shall be deemed complete upon mailing. If the administrative citation is sent by mail, the enforcement officer shall also cause the property where the violation of this Title is located to be posted in a conspicuous place visible from an adjacent public right-of-way.

E. The administrative citation shall state the date issued, the name of the responsible party to whom the citation is issued, the address of the property, the violation(s) cited, a time limit of ten (10) business days given to remove or correct the cause of such violation, the right to appeal the citation and to request an administrative hearing by making a written demand to the City for a hearing within ten (10) business days of service or posting of the citation, and be signed by the enforcement officer.

F. The enforcement officer has the discretion to grant an extension of the time for compliance within the ten (10) business days, should good cause exist.

G. Good cause may include, but shall not be limited to additional time needed because of the practical difficulty of removing or correcting the cause of the violation; the age, financial condition, or health of the owner, lessee, or occupant of the property; the availability of volunteers to assist the owner, lessee, or occupant of the property in removing or correcting the cause of the violation; and other extenuating circumstances. As a condition of determining that good cause exists for extending the time for compliance, the enforcement officer may obtain information to determine if good cause exists to grant the extension of time to remove or correct the cause of the violation.

If after ten (10) business days, or a granted extension of time has expired, and the violation remains on the property, the enforcement officer may request an administrative hearing before the Administrative Hearing Officer.

Section 17.168 Appeal of Administrative Citation

A. A responsible party served with an administrative citation may file a notice of appeal within ten (10) business days from the service of the citation. If an extension is granted, the time for filing a notice of appeal is extended to the date of termination of the extension granted. Compliance with this time limit shall be a jurisdictional prerequisite to any appeal brought under this Section, and failure to comply shall bar any such appeal.

B. The notice of appeal shall be made in writing, must include the responsible party's current telephone number, residence address and mailing address and be received by the City within ten (10) business days of service of the citation or by the date of termination of any extension granted with the Court Clerk on a form provided by the Court Clerk.

C. Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at the mailing address indicated in the notice of appeal, at least 10 calendar days prior to the date of the hearing.

Section 17.169 Administrative Hearing.

A. Once a request for a hearing has been filed, the obligation to abate is stayed until completion of the administrative hearing except for appeals of administrative citations that the zoning administrator has determined would cause immediate peril to life or property, or is of a nature that requires immediate compliance.

B. An administrative hearing shall be held within fifteen (15) business days, if reasonable following receipt by the City of the written request, or if not possible then as soon thereafter as reasonable. At least two- (2) business day's notice of the administrative hearing shall be given to the person who made the written demand for the hearing.

C. Failure of the responsible party to request a hearing within the stated time period, or failure to appear for the scheduled hearing, shall be deemed a waiver of the right to such hearing.

D. The administrative hearing shall be conducted by an Administrative Hearing Officer (AHO).

1. The AHO may be the municipal judge, or other designee by the City Manager.
2. Any person designated to serve as an AHO is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law.
3. The sole issue before the AHO shall be whether the condition(s) described in the notice constitutes a violation of this chapter. If the AHO finds that a violation exists, the AHO shall confirm the order that the violation be abated. The AHO shall impose a reasonable time for abatement to be accomplished. If the AHO finds that no violation exists, the AHO has the authority to vacate the administrative citation.

E. Procedures at Administrative Hearings shall be conducted the following manner:

1. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The parties shall exchange a list of exhibits, and copies of documents or pictures they intend to offer and list of witnesses they intend to call, within three (3) days before the hearing at the request of any party made five (5) days before the hearing. The procedure and format of the administrative hearing shall follow procedures acceptable to the AHO. The hearings shall be open to the public. The hearing shall be recorded and a record of the proceedings maintained by the AHO.
2. The parties to an administrative hearing shall be the responsible party and the City. Parties may be represented by legal counsel. The case for the City may be presented by the enforcement officer who issued the administrative citation, or his/her designee or by the city attorney, the city prosecutor, or such other attorney as designated by the City.
3. Parties may present evidence, call and question witnesses and cross examine witnesses called by other parties, with the City proceeding first, followed by the responsible party, with rebuttal as allowed by the AHO.

4. The AHO, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary by the AHO to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The AHO may allow witnesses, other than the responsible party and the enforcement officer, to testify by telephone, provided no party objects, or the AHO determines there is good cause for allowing a witness to testify by telephone. The AHO may limit the number of witnesses to eliminate irrelevant or repetitive testimony.
5. The AHO shall have the power to call and question witnesses, to review and consider the relevancy and probative weight of testimony, documentary or other tangible evidence, to rule on evidentiary questions and witness qualifications, and to generally conduct the hearing in conformance with the procedures and requirements set forth herein.
6. The City bears the burden of proof at an administrative appeal to establish the existence of a violation of this title. The responsible party bears the burden to establish any affirmative defense.
7. The standard of proof to be used by the AHO in deciding the issues at an administrative hearing is by a preponderance of the evidence.
8. The AHO may allow for continuances at his or her discretion.
9. At the conclusion of the hearing, the AHO shall prepare a written enforcement order or compliance agreement. A copy of such order or agreement shall be provided to the person requesting the hearing and the enforcement personnel.
10. The decision of the AHO is a final administrative enforcement order.

F. An appeal of the AHO's order pursuant to Colorado Rules of Civil Procedure 106 (a)(4), by either the responsible party or the City, shall be made to a court of competent jurisdiction.

Section 17.170 Failure to Comply With Administrative Enforcement Order or Compliance Agreement.

It shall be unlawful for a responsible party who has been served with a final administrative enforcement order to fail to comply with the order, or to comply with the terms of a compliance agreement. Failure to comply with a final administrative enforcement order or compliance agreement may be criminally prosecuted. Prosecution for failure to comply with a final administrative enforcement order or compliance agreement shall not commence until the time such order has lapsed or unless the compliance agreement has been breached.

Section 17.171 Abatement.

A. Upon the failure, neglect or refusal of the owner, lessee or occupant of such real property or record owner to correct or remove the cause of the violation within the time limits herein set forth, the enforcement officer is authorized to have the violation(s) abated by private contractor. The cost of abatement plus an administrative fee as set forth in the City fee schedule shall be collected from the record owner of such property and shall apply independently and in addition to the penalty provided for in Section 17.163 of this Chapter.

B. In the event the record owner or agent of the owner of such property fails to pay such costs of abatement within fifteen (15) business days after billing, a lien may be assessed against the property for such costs. The lien hereby created shall be superior and prior to other liens regardless of date, except for liens for general taxes and special assessments. Ten (10) percent of the amount shall be added to the assessments to pay the cost of collection.

Section 17.172 Hearing on Lien. The owner of property subject to the lien may appeal the amount or validity of the lien by requesting an administrative hearing in writing within fifteen (15) business days of the date of billing.

A. Such written demand must be filed with the Court Clerk on a form provided for such a hearing by the Court Clerk.

B. The hearing shall be conducted by the AHO. In accordance with the procedures set forth in section 17.169 of this Title. If the AHO finds that the amount of the lien is valid, the AHO shall confirm the lien. If the AHO finds that the amount of the lien is not correct, the AHO shall correct the amount of the lien or, if no lien is appropriate, order that the lien be removed.

C. Failure of the owner to request a hearing within the stated time period, or failure to appear for the scheduled hearing, shall be deemed a waiver of the right to such hearing.

D. The decision of the AHO is a final administrative decision.

E. An appeal of the AHO's order pursuant to Colorado Rules of Civil Procedure 106 (a)(4), by either the responsible party or the City, shall be made to a court of competent jurisdiction.

Section 17.173 Suit. The City may collect by suit the costs and fees assessed pursuant to this Title or may obtain an injunction prohibiting a violation of this Title or an injunction to enforce the abatement of any violation set forth in this Title by suit in a court of competent jurisdiction.

Section 17.174 Permit Revocation. A building, conditional use, other permit or any certificate of occupancy issued under the provisions and procedures of this Title may be revoked by an authorized representative of the city if the permit recipient fails to develop, improve, or maintain the property in accordance with the approved plans or the requirements of this title.

ARTICLE II. DISTRICT REGULATIONS

Chapter 17.20 Districts and Maps

Section 17.200 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: Multi-Family Residential District.
6. MHP: Manufactured Housing Park.
7. MHS: Manufactured Housing Subdivision District.
8. MU: Downtown Mixed Use District.
9. NC: Neighborhood Commercial District.
10. VC: Village Center District.
11. RC: Regional Commercial District.
12. BP: Business Parks District.
13. SO: Small Office/Warehouse.
14. PI: Planned Industrial Development District.
15. POS: Parks and Open Space District.
16. 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 fall.

C. Use Regulations.

1. Permitted Principal Uses are 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 are a use by right that are customarily incidental to the identified permitted uses, if they meet any applicable regulations. Permitted accessory uses or structures, other than in conjunction with a single-family, two-family dwelling unit or permitted agricultural building, require site development plan approval and building permit approval, if required.
3. Conditional Uses are 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 are 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 17.59, Planned Unit Developments, Chapter 17.53 and Non-conforming Uses, Structures, Lots and Parking, Chapter 17.60. Dimensional requirements include:

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

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

Section 17.202 Official Zoning Map Adopted

A. 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 17.204 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 17.58 and shall promptly be entered on the official zoning map with an entry on the map giving the number of the amending ordinance.

Section 17.206 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 Multi-Family 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. NC Neighborhood Commercial District: none.
10. VC Village Center District: one (1) acre.
11. RC Regional Commercial District: one (1) acre.
12. BP Business Park District: two (2) acres.
13. SO Small Office/Warehouse District: one (1) acre.
14. PI Planned Industrial District: one (1) acre.
15. POS Parks and Open Space District: none.
16. PUD Planned Unit Development District: one (1) acre.

Section 17.208 Listing Of Permitted Principal Uses. 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. Designations in lists of uses shall be determined as follows: Permitted principal uses are uses by right and are permitted anywhere within the zoning districts indicated. All principal and accessory uses require a building permit approval, except as exempted by the uniform building code. 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. 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. 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. 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. 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 17.209 Public and Quasi-public Uses Permitted in All Districts

A. Except as otherwise regulated by Chapter 17.22 Zoning Districts, the following uses shall be permitted in all districts:

1. Distribution, transmission and service utility lines and routes requiring simple easements or installation in public rights-of-way.
2. Irrigation ditches.
3. Public or private nonprofit park and recreational facilities.
4. Railway rights-of-way, but not including railway maintenance facilities.

B. Except as otherwise regulated by Chapter 17.22 Zoning Districts, the following uses shall be permitted in all districts upon approval of a preliminary site development plan by the planning commission:

1. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
2. Fire and police stations.
3. Ambulance facilities.
4. Municipal administration buildings.
5. Schools, excluding private schools.

Chapter 17.22 Districts and Maps

Section 17.220 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 17.45 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.
 - b. Farming and ranching.
 - c. Keeping of animals as specified in Chapter 17.45.
 - d. Agricultural uses including nurseries.
 - e. Well-maintained and landscaped open space or neighborhood parks with structures of no more than five thousand (5,000) square feet.
 - f. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it is for no more than eight persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
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. Off-street parking for the principal use as specified in Chapter 17.34.
- c. Home-based businesses which occupy less than thirty-five percent (35%) of the gross floor area of the principle use and which have no exterior indication of nonresidential activity except for parking or signage as specified in Chapters 17.34 and 17.38. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot. Such use shall not create traffic congestion, parking problems, noise or any other nuisance or hazard in the neighborhood.
- d. Private garages, only for the storage of private automobiles owned and used by the occupants of the residential building.
- e. Home based day care serving one (1) to six (6) children for less than twenty-four (24) hours per day.

3. Conditional Uses:

- a. Public buildings, civic facilities, schools (except public schools exempt from municipal land use control pursuant to state law) and places of worship.
- b. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303, if it is for more than eight persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
- c. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
- d. Commercial riding stables with a minimum lot area of two and one half (2-1/2) acres and no more than one (1) animal unit per acre.
- e. Childcare facilities.

C. Dimensional Requirements.

- a. Minimum Lot Area: two and one half (2.5) acres.
- b. Minimum Lot Width: two hundred feet (200').
- c. Maximum Gross Density: one (1) dwelling unit per two and one half (2 1/2) acres.
- d. Minimum Open Space: fifty percent (50%).
- e. Maximum Impervious Coverage: twenty-five percent (25%).
- f. Minimum Front Yard Setback: twenty-five feet (25').
- g. Minimum Side Yard Setback: twenty-five feet (25').
- h. Minimum Rear Yard Setback: twenty-five feet (25').
- i. Maximum Building Height: thirty-six feet (36').

D. Development Standards.

1. All buildings, riding rings, corrals, poultry houses, pigeon coops, chinchilla hutches and fenced areas wherein animals are kept shall not be located within fifty feet (50') of any property line.
2. Maximum total ground coverage for accessory structures shall be nine hundred (900) square feet per gross acre of property.
3. 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.

4. Development design and site layout shall protect and preserve wetlands and riparian areas, critical wildlife habitats and natural features and landmarks.
5. Home-based businesses shall only receive delivery of supplies between the hours of 8:00 a.m. and 6:00 p.m. Agricultural uses are exempt from this requirement.

Section 17.222 Residential Agricultural District (RA)

A. Characteristics and Objectives. The RA zoning district is intended for single-family detached residential units with a maximum gross 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. Other objectives for the RA district include:

1. Allowing for larger lot development that assists in retaining the rural character of Fountain.
2. Allowing for limited home-based businesses to help provide homeowners with additional economic means for maintaining permanent residency.
3. Ensuring that new development is compatible with and enhances the character of existing residences and the natural environment.

B. Use Regulations.

1. Permitted Principal Uses:

- a. Single-family detached dwelling units.
- b. Well-maintained and landscaped open space or neighborhood parks with structures of no more than five thousand (5,000) square feet.
- c. Keeping of animals as specified in Chapter 17.45.
- d. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves no more than eight (8) persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.

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

- a. Parking for the principal use as specified in Chapter 17.34.
- b. Home-based businesses which occupy less than thirty-five percent (35%) of the gross floor area on the lot and which have no exterior indication of nonresidential activity except for parking or signage as specified in Chapters 17.34 and 17.38. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot. Such use shall not create traffic congestion, parking problems, noise or any other nuisance or hazard in the neighborhood.
- c. Private garages, only for the storage of private automobiles owned and used by the occupants of the residential building.
- d. Home based day care serving one (1) to six (6) children for less than twenty-four (24) hours per day.
- e. Farming as defined under "agricultural activity" in section 17.710.

3. Conditional Uses:

- a. Public Buildings, facilities, 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.
- b. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves more than eight (8) persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
- c. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
- d. Commercial riding stables with minimum lot area of two and one-half (2.5) acres and no more than one (1) animal unit per acre.
- e. Childcare facilities.

C. Dimensional Requirements.

1. Minimum Lot Area: one (1) acre.
2. Minimum Lot Width: one hundred and twenty (120) feet.
3. Maximum Gross Density: one (1) dwelling unit per acre.
4. Minimum Open Space: fifty percent (50%).
5. Maximum Impervious Coverage: twenty-five percent (25%).
6. Minimum Front Yard Setback: twenty-five feet (25').
7. Minimum Side Yard Setback: ten feet (10') plus an additional five feet (5') for any structure over eighteen feet (18').
8. Minimum Rear Yard Setback: twenty feet (20') for principal structure and accessory buildings.
9. Maximum Building Height: Thirty-six feet (36').

D. Development Standards.

1. All buildings, riding rings, corrals, poultry houses, pigeon coops, chinchilla hutches and fenced areas wherein animals are kept shall not be located within fifty feet (50') of any property line.
2. Maximum total ground coverage for accessory structures shall be nine hundred (900) square feet per gross acre of property.
3. Home-based businesses shall only receive delivery of supplies between the hours of 8:00 a.m. and 6:00 p.m. Agricultural uses are exempt from this requirement.

Section 17.224 Single-Family Residential Small Lot District: (R1)

A. Characteristics and Objectives.

1. The R1 zoning district is intended for single-family detached residential units with a maximum gross density of six (6) units per acre.

B. Use Regulations.

1. Permitted Principal Uses:

- a. Single-family detached dwelling units.
- b. Well-maintained and landscaped open space or neighborhood parks with structures of no more than five thousand (5,000) square feet.
- c. Owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves no more than eight (8)

persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.

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 which occupy less than thirty-five percent (35%) of the gross floor area on the lot and which have no exterior indication of nonresidential activity except for parking or signage as specified in Chapters 17.34 and 17.38. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot. Such use shall not create traffic congestion, parking problems, noise or any other nuisance or hazard in the neighborhood.
- c. Private garages, only for the storage of private automobiles owned and used by the occupant of the residential building.
- d. Home based day care serving one (1) to six (6) children for less than 24 hours per day.

3. Conditional Uses:

- a. Public buildings, facilities, 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.
- b. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves more than eight (8) persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
- c. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
- d. Childcare facilities.

C. Dimensional Requirements.

1. Minimum Lot Area: six thousand (6,000) square feet per dwelling unit.
2. Minimum Lot Width: sixty feet (60') per dwelling unit measured at building setback line.
3. Maximum Impervious Coverage: thirty-five percent (35%).
4. Minimum Open Space: twenty percent (20%).
5. Maximum Building Height: thirty feet (30').
6. Minimum Front Yard Setback: twenty-five feet (25').
7. Minimum Side Yard Setback: five feet (5') or one foot (1') for every three feet (3') of building height, whichever is greater.
8. Minimum Rear Yard Setback: twenty feet (20') and five feet (5') for accessory buildings.

D. Development Standards.

1. Accessory uses that are customarily incidental to the permitted principal use shall represent less than thirty-five percent (35%) of the building footprint on the lot.
2. Home-based businesses shall only receive delivery of supplies between the hours of 8:00 a.m. to 6:00 p.m.

Section 17.226 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, two-family dwellings and town homes.
 - b. Multi-family dwellings not to exceed twelve (12) dwelling units per acre.
 - c. Professional offices, business offices, and studios.
 - d. Retail stores and commercial establishments less than three thousand (3,000) square feet.
 - e. Personal services such as barber shops, beauty shops, business and office services, and travel and ticket agencies.
 - f. Public parks, neighborhood playgrounds, common areas and recreational facilities.
 - g. Bed and breakfast establishments.
 - h. Commercial accommodations.
 - i. Places of worship.
 - j. Educational Centers, including day-care centers and cultural complexes less than five thousand (5,000) square feet.
 - k. Area-wide transportation and parking facilities that support area transit.
 - l. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves no more than eight (8) persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
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 which occupy less than thirty-five percent (35%) of the building footprint on the lot and which have no exterior indication of nonresidential activity except for parking or signage as specified in Chapters 17.34 and 17.38. The home occupation shall not involve the use of any yard space or activity outside of the building that is not normally associated with residential use. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot.
3. Conditional Uses:
- a. Public buildings, and facilities over five thousand (5,000) square feet.
 - b. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves more than eight (8) persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
 - c. Professional activities and convenience businesses if located on the ground floor of any residential development and if it is accessible from an arterial or collector street and adequate parking can be accommodated on-site. Conditional use applies only if the total area devoted to nonresidential uses is greater than three thousand hundred (3,000) square feet.
 - d. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
 - e. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
 - f. Group care facilities.

C. Dimensional Requirements.

- 1. Minimum Lot Area: five thousand (5,000) square feet.
- 2. Minimum Lot Width: fifty feet (50').
- 3. Maximum Residential Density: twelve (12) dwelling units per acre.
- 4. Maximum Impervious Coverage: eighty percent (80%).
- 5. Minimum Open Space: twenty percent (20%).
- 6. Maximum Building Height and Bulk Plane Envelope: The bulk of a building shall be restricted on the street facade by a bulk plane. The bulk plane shall start from a point twenty-five feet (25') above the existing grade measured on the street property line and will extend at a forty-five degree (45) angle towards the rear of the property until it intersects with a horizontal plane thirty-five feet (35') above the average existing grade of the property line.
- 7. Minimum Front Yard Setback: none.
- 8. Minimum Side Yard Setback: five feet (5').
- 9. Minimum Rear Yard Setback: five feet (5').

D. Development Standards.

- 1. Accessory uses that are customarily incidental to the permitted principal uses shall represent less than thirty-five percent (35%) of the building footprint on the lot.
- 2. Storage of materials accessory to any of the permitted uses for this district, provided all such storage is located within a structure.

3. The distance between detached structures shall not be less than five feet (5').
4. At least twenty percent (20%) of each site shall be landscaped.
5. 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.
6. Development in the Residential Mixed Use District, 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 are accessible to the public and at a minimum provide seating and landscaping.

Section 17.228 Multi-Family Residential District (MF)

A. Characteristics and Objectives. This district is intended to provide for the development of multi-family 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, accessory uses customarily found in proximity to medium and higher density residential areas may be permitted.

B. Use Regulations.

1. Permitted Principal Uses:
 - a. Multi-family dwelling.
 - c. Single-family and two-family dwellings.
 - d. Rooming house, boarding house and dormitory.
 - e. Institutional and quasi-public uses: Community center, detoxification center, family care home, group home, health care support facility, religious institution, and homeless shelter.
 - f. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves no more than eight (8) persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
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 which occupy less than thirty percent (35%) of the building footprint on the lot and which have no exterior indication of nonresidential activity except for parking or signage as allowed in Chapters 17.34 and 17.38. The home occupation shall not

involve the use of any yard space or activity outside of the building, which is not normally associated with residential use. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot.

- c. Private garages, only for the storage of private automobiles owned and used by occupants of the residential building.
3. Conditional Uses:
- a. Public buildings, grounds, and facilities over five thousand (5,000) square feet.
 - b. An owner-occupied or nonprofit group home for the aged as these terms are defined by C.R.S. § 31-23-303 if it serves more than eight persons, is not located within seven hundred and fifty feet (750') of another such group home, and the owner or operator resides and maintains primary residency within the group home.
 - c. Professional activities and convenience businesses if located on the ground floor of any residential development and if it is accessible from an arterial or collector street and adequate parking can be accommodated on-site. Conditional review applies only if the total area devoted to nonresidential uses is greater than three thousand (3,000) square feet.
 - d. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
 - e. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
 - f. Group care facilities.
 - g. Childcare facilities.

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. Multi-family Residential: ten thousand (10,000) square feet.
 - d. Lot Area Per Residential Unit: one thousand (1,000) square feet.
- 2. Minimum Lot Width:
 - a. Single-family Residential: sixty (60) feet.
 - b. Two-family Residential: sixty (60) feet.
 - c. Multi-family Residential: seventy-five (75) feet.
- 3. Maximum Gross Density: sixteen (16) dwelling units per acre.
- 4. Maximum Building Height: forty (40) feet.
- 5. Minimum Open Space: two hundred fifty (250) square feet per dwelling unit.
- 6. Maximum Impervious Surface: none
- 7. Minimum Front Yard Setback: twenty-five (25) feet.
- 8. Minimum Side Yard Setback: five (5) feet for the first story, plus an additional five (5) feet for each additional story.
- 9. 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 four (4) feet in width.
 - c. Create pocket parks or green spaces that at a minimum provide seating and landscaping.

Section 17.230 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 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. Existing Manufactured Housing as Nonconforming 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) month's time of its removal, provided the location is still zoned RA, and the manufactured home complies with the requirements of this chapter.
4. 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 17.58. The application shall be accompanied by a site development plan that shall contain the information in Chapter 17.54.

5. Modification of Standards. The standards for manufactured housing parks as set forth herein may be modified or waived in appropriate circumstances by the city council, after planning commission review, where it is demonstrated that no additional impact to the city or public will result from such modification or waiver, and the design of the project offers alternative standards which are not detrimental to surrounding properties or the community.

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 or on-site built homes, provided said dwellings have been constructed no more than ten (10) years prior to the effective date of this title.
 - b. Community center.
 - c. Group 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 or on an adjacent lot.
 - b. Recreational facilities.
 - c. Service facilities.
 - d. Storage facilities.
3. Conditional Uses:
 - a. Recreational vehicle, occupied.
 - b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.

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 Gross 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.
 - c. Individual Lot or Space Width: forty (40) feet.
6. 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.
 - a. Minimum Distance Between Structures: fifteen (15) feet.
7. 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 feet (4') 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 17.37 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. 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 17.232 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 an manufactured housing subdivision.

B. Use Regulations.

1. Permitted Principal Uses:

- a. Type I manufactured homes, modular homes assembled after 1976, factory built homes and on-site built homes, provided said dwellings 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 private.

- 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. Service facilities.
 - d. Home based day care serving one (1) to six (6) children for less than twenty-four (24) hours per day.
- 3. Conditional Uses:
 - a. Child care facilities.
 - b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.

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 feet (30').
- 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 not less than twenty-four (24) feet wide or less than 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 1974" 42 USC 5401, etc., as amended.
- 8. Meets or exceeds, on an equivalent performance engineering basis, the standards established by HUD code or the uniform building code, and the Uniform Code for Abatement of Dangerous Buildings as adopted in the City of Fountain Municipal Code.
 - a. 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 UBC.

- b. As an equivalent performance engineering standard for manufactured homes, snow loads shall meet the requirements as outlined in the uniform building code, as adopted by the City of Fountain.
- 9. All front doors must face the primary street.
- 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 17.37. Landscaping generally.
 - 3. All lots within a MHS shall comply with the landscaping standards set forth in Chapter 17.37.

Section 17.234 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 situated predominantly on the ground floor level.
- b. Personal services and servicing facilities that support activities within the downtown core.
- c. Restaurants.
- d. Entertainment.
- 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. Public and quasi-public uses, institutions and services.
- h. Residential dwelling units (two-family dwellings, condominiums, town houses and group homes) only if located above ground floor nonresidential uses and not exceeding twelve (12) dwelling units per acre.
- i. Recreation, cultural and educational facilities, public or private.
- j. Commercial accommodations only if located above ground floor nonresidential uses.

- k. Small inns and lodges (5 to 20 rooms).
 - l. Public or private open space and common areas.
 - m. 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. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
 - b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
 - c. Theaters, meeting rooms and convention centers.
 - d. 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. Minimum Open Space: ten percent (10%).
5. Maximum Building Height: forty feet (40') or three (3) stories.
6. Street Setbacks: within eight (8) horizontal feet of a street property line only the following shall be permitted:
 - a. Driveways not exceeding twenty-five feet (25') in width.
 - b. Pedestrian or landscaped areas.
 - c. Unoccupied architectural projections of not more than four (4) horizontal feet with nine feet (9') of vertical clearance.
 - d. Awnings or signs provided they meet building and sign code clearance requirements in Section 17.385.
7. Minimum Side Yard Setback: none is required if the side wall is a party wall; but ten feet (10') shall be allowed if the side wall is not a party wall.
8. 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 feet (25') without being differentiated by settings providing structural bays, clearly expressed columns or other architectural elements to add interest at the sidewalk edge.
7. All street-level windows shall be recessed at least four inches (4").

Section 17.235 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 process¹.
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, vehicle service 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 facilities.
 - 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, entertainment facilities and complexes, including but not limited to: bowling alleys, arcades (pinball, video, etc.), theaters, dinner theaters, skating rinks, billiard parlors, teen clubs, concert or music hall 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. Pawn shops and second hand stores.
 - g. 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

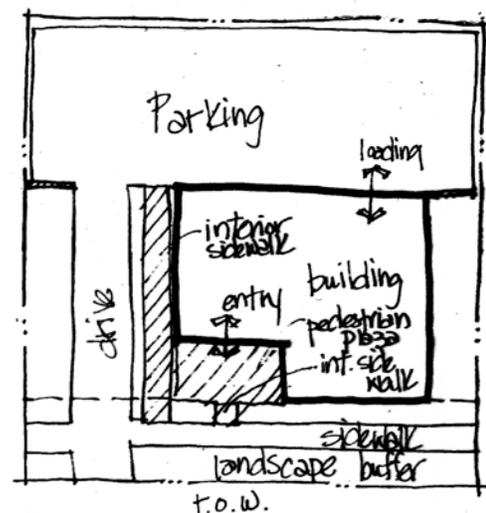
¹ Note- Access to businesses along Santa Fe Avenue require an access permit from the CDOT

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.

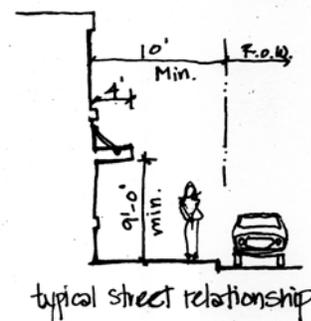
- h. Indoor recreation, cultural and educational facilities, both public and private including, but not limited to: art gallery or studio, gymnasium, library, museum, private school, vocational training facilities, amphitheatres, and performing arts studios.
 - i. Residential dwelling units (two-family dwellings, condominiums, townhomes, apartment complexes, live/work residences, and group homes) not exceeding sixteen (16) dwelling units per acre.
 - j. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
 - k. Retail establishments.
 - l. Fabrication or assembly relating to retail sales with no outside storage.
 - m. Day care centers or facilities.
 - n. Transit facilities and structures such as park n' ride lots; public parking lots and bus stops.
 - o. Contractor trades with no outside storage.
 - p. Taxidermy.
 - q. Recreational Vehicle Park.
 - r. Mortuary and Funeral Home.
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 which occupy less than thirty-five percent (35%) of a building footprint on the lot and which comply with the parking and signage requirements as specified in Chapters 17.34 and 17.38. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot.
3. Conditional Uses:
- a. Equipment storage if screened from public view.
 - b. Flea Markets.
 - c. Hospitals, medical and clinic facilities over 25,000 square feet.
 - d. Outdoor entertainment, entertainment facilities, entertainment complexes, recreation and cultural facilities.
 - e. Vehicle towing and impound lot if screened from public view.
 - f. Automotive body, or paint shop.
 - g. Single-family dwelling.

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 feet (40') or three stories, whichever is less.
6. Setback from street: Ten feet (10') from street right-of-way. The following shall be allowed in the ten foot setback area:
 - a. Driveways not exceeding twenty-eight feet (28') in width that are perpendicular to the street. Driveways exceeding twenty-eight feet shall be separated by a landscaped or patterned hardscaped median.
 - b. Pedestrian or landscaped areas.
 - c. Unoccupied architectural projections of not more than four horizontal feet (4') with nine feet (9') of vertical clearance.
 - d. Awnings or signs provided they meet building and sign code clearance requirements in Section 17.385.
7. Side yard setback: None is required if the side wall is a party wall; but five feet (5') 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 feet (5') is required if the rear wall is not a party wall.
9. Transition between uses: Section 17.328 of this Ordinance shall not apply to this zone district.
10. Landscape Setback: Section 17.370.D shall not apply to this zone district.



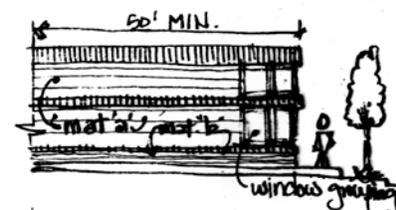
Lot to have 75% max. impervious coverage - int. sidewalks & plaza not included in 75% (hatched)



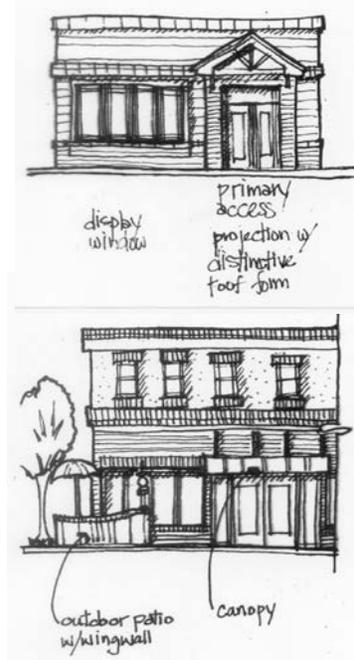
typical street relationship

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.

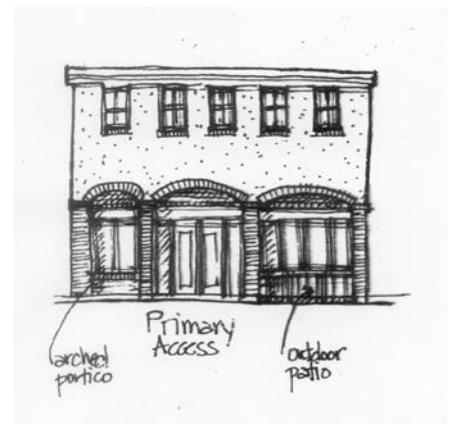
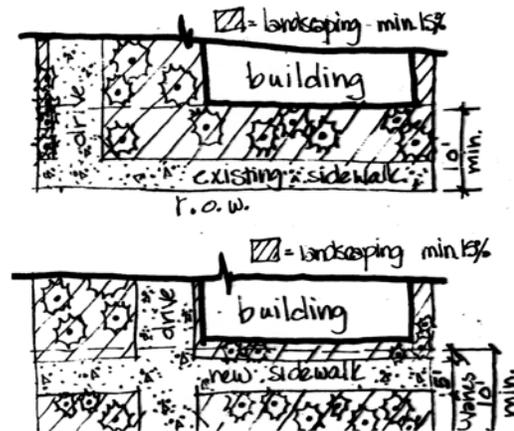


- e. Minimum of two of the following design elements shall be incorporated for each fifty horizontal feet (50') of a building façade or wall while incorporating architectural consistency:
 - Changes in color, texture, or materials.
 - Projections, recesses, and reveals, expressing structural bays, entrances, or other aspects of the architecture with a minimum change of plane of 12 inches.
 - Grouping of windows or doors.
 - 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:
 - Canopies or porticos.
 - Overhangs, recesses/projections.
 - Distinctive roof forms that vary in pitch and slope.
 - Arches.
 - Outdoor patios.
 - Display windows.
 - Planters or wing walls that incorporate landscaped areas and/or places for sitting.

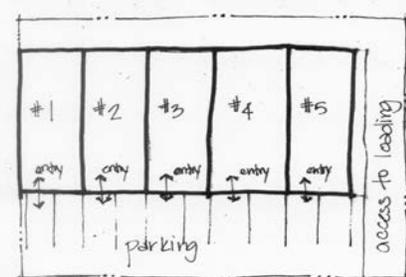


2. Site Layout:

- 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 feet (5') 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:
 - A landscaped area of a minimum ten feet (10') wide containing a minimum forty percent (40%) landscaping; or
 - A building, building façade, decorative wall, entry feature or other similar structure.
- e. All development shall provide at least two or more of the following design features:
 - Create useable pedestrian plaza or green spaces that are accessible to the public and at a minimum provide seating and landscaping.



- Public or private outdoor seating areas.
- Inviting street level storefront that is oriented toward pedestrians and provides visually interesting forms or displays.
- 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.



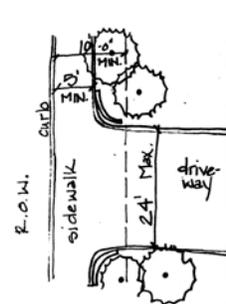
Undesirable lot design

- no sidewalk
- no landscape buffer
- no foot traffic

- no desired edge treatment
- no public seating or gathering

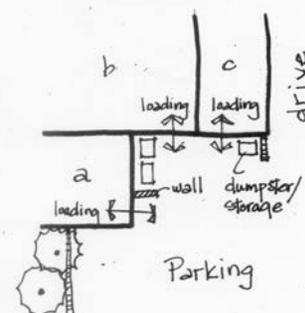
3. Parking, Vehicle Access and Loading Areas:

- 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 unless the size of the use, the building or the parking lot makes this infeasible. Avoid locating parking between a building's frontage and the street or open space.
- d. Driveways shall be perpendicular to the street.
- e. 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.
- f. Continuous walkways shall provide connections to and between:
 - The primary entrance or entrances to each building, including pad site buildings.
 - All parking lots or parking structures that serve such buildings.
 - Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the development.
 - 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 foot (6') high solid fence or 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.
5. Application:
- a. See Sections 17.304 and Section 17.341 as they relate to the application of this section to existing, new or changes in land uses, buildings, site development, additions, occupancy or parking.

For all changes to a site, building or use that are not addressed in Sections 17.304 and 17.341, improvements to the visual nature of the landscaping, screening or building as stated in the requirements above shall still be required. The amount of landscaping, screening or building improvements required shall be based on the percentage of change to the use, building, site and/or occupancy. (For example, an addition to a building of five percent (5%) shall require an improvement to the same degree in either landscaping, screening or building façade.) (Ord. 1361, §2, 2007)

Section 17.236 Neighborhood Commercial District (NC)

A. Characteristics and Objectives. NC 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:

- a. Any of the following uses if the gross floor area of a single building or structure containing the use does not exceed three thousand (3,000) square feet.
- b. Specialty retail and services, 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.
- c. Small-scale professional offices, such as medical, dental or other individual or health related offices.
- d. Restaurants, without drive-through facilities.
- e. 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) may be permitted if the building and accessory facilities are designed to be consistent with the desired character of the area, and do not adversely affect other uses in the area.

- b. Convenience stores with gas pumps.
- c. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.

C. Dimensional Requirements.

- 1. Minimum Lot Area: none
- 2. Minimum Lot Width: none
- 3. Maximum Impervious Coverage: eighty percent (80%).
- 4. Minimum Open Space: twenty percent (20%).
- 5. Maximum Building Height: thirty feet (30').
- 6. Minimum Front Yard Setback: ten feet (10'), or average setback of all buildings on the block.
- 7. Minimum Side Yard Setback: five feet (5'). If located adjacent to a residential district or public use, the minimum setback shall be ten feet (10').
- 8. Minimum Rear Yard Setback: twelve feet (12').

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 inches (4") 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 four feet (4') in width.
 - c. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
- 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, by use of either fences or landscaping, of any adjacent residential properties.
- 5. 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.
- 6. Garages or other buildings intended for vehicular storage shall provide a minimum eighteen foot (18') 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.
- 7. No drive up facility of any sort is permitted.

Section 17.238 Village Center District (VC)

A. Characteristics and Objectives. VC 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. Treatment and boarding of small animals within an enclosed structure.
- d. Pharmacies.
- e. Studios for professional work or services.
- f. Ambulance facilities.
- g. Restaurants.
- h. Places of worship.
- i. Commercial uses and professional services deemed to be of similar impact.
- j. 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. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
- b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
- c. Recreational facilities and clubs.
- d. Theaters, meeting rooms and convention centers.
- e. Hospitals and clinic facilities.
- f. Indoor amusements.
- g. Child care facilities.
- h. Private schools.
- i. Lodging facilities.

C. Dimensional Requirements.

1. Minimum Lot Area: one (1) acre. Parcels of less than one (1) acres may be allowed if the applicant, through joint access easements or other negotiated means, has provided for:
 - a. Shared ingress and egress access between properties.
 - b. Consolidated access points with abutting properties.
 - c. Contiguous sidewalks with abutting properties.
 - d. Two (2) or more of the following: an integrated pattern of streets, outdoor spaces, building styles and land uses on any parcel abutting the parcel.
2. Minimum Lot Width: none.
3. Maximum Impervious Coverage: eighty-five percent (85%).
4. Minimum Open Space: fifteen percent (15%).
5. Maximum Building Height: forty feet (40').
6. Minimum Front Yard Setback: twenty feet (20').
7. Minimum Side Yard Setback: ten feet (10').
8. Minimum Rear Yard Setback: twenty feet (20').

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 inches (4") in diameter.

Section 17.240 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. Lodging and meeting facilities.
- b. Entertainment complexes.
- c. Automobile service stations.
- d. Restaurants.
- e. 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.
- f. Office complexes with convenience retail located within each building.
- g. Parks and common areas.
- h. Area-wide transportation facilities.
- i. Auto service/repair.

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 and amusements may be permitted if they are designed to be consistent with the desired character of the area, do not adversely effect other uses in the area and do not pose a threat to public safety.
- b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.

C. Dimensional Requirements.

1. Minimum Lot Area: forty thousand (40,000) square feet.
2. Minimum Lot Width and Depth: one hundred and fifty feet (150') wide; one hundred and fifty feet (150') deep.
3. Maximum Impervious Coverage: eighty percent (80%).
4. Minimum Open Space: fifteen percent (15%).

5. Maximum Building Height: fifty feet (50').
6. Minimum Front Yard Setback: twenty feet (20').
7. Minimum Side Yard Setback: twenty feet (20').
8. Minimum Rear Yard Setback: twenty-five feet (25').

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 feet (200') 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 feet (5') in width.
 - c. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
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.

Section 17.242 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 in 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, childcare facilities, public or private spaces and community facilities.
3. Conditional Uses:
- a. Retail, personal and professional services, offices, child-care facilities and restaurants.
 - b. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
 - c. Lodging and meeting facilities.
 - d. Restaurants.

C. Dimensional Requirements.

- 1. Minimum Lot Area: none.
- 2. Minimum Lot Dimensions: none.
- 3. Maximum Impervious Coverage: eighty percent (80%).
- 4. Minimum Open Space: fifteen percent (15%).
- 5. Maximum building height: forty feet (40') for every additional percentage of useable open space the building height may be increased by the same number. Five percent (5 %) increase in open space equals an additional five feet (5') in building height.
- 6. Minimum Front Yard Setback: twenty feet (20').
- 7. Minimum Side Yard Setback: ten feet (10').
- 8. Minimum Rear Yard Setback: ten feet (10').

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 inches (4") in diameter and taller than five feet (5') 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 feet (5') in width.
 - c. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
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 17.243 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.
 - 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. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
 - c. Theaters, meeting rooms and convention centers.
 - d. 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. Minimum Open Space: fifteen percent (15%).
5. Maximum Building Height: fifty feet (50').
6. Minimum Front Yard Setback: ten feet (10').
7. Minimum Side Yard Setback: five feet (5'), except where adjoining or immediately across the street from a residential district, educational institution, or park, there shall be a side yard setback of not less than ten feet (10').
8. Minimum Rear Yard Setback: twelve feet (12'), except where adjoining or immediately across the street from a residential district, educational institution, or park, there shall be a side yard setback of not less than twenty feet (20').

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 feet (100') of the site.
 - b. Provide sidewalks at least five feet (5') in width.
 - c. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
3. New development shall minimize unused or unusable public or private areas in the side or rear yards.

Section 17.244 Planned Industrial District (PI)

A. Characteristics and Objectives. PI 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. Vocational training center and school.
 - g. Retail sale of products produced on-site.
 - h. Distribution centers and warehouse uses with less than fifty thousand (50,000) square feet of building area.
 - i. Auto service/repair.
 - j. Self-storage facilities.
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 outside 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.

- b. Convenience businesses.
- c. Trucking terminals.
- d. 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.
- e. Pawnshops, if it is not established, operated, or maintained within one thousand feet (1,000') of any commercial zoning district.
- f. Adult-oriented use, if it is not established, operated, or maintained within one thousand feet (1,000') of a residential zoning district, place of worship, park, and/or school and is not established, operated, or maintained within three hundred feet (300') of another adult-oriented use.
- g. Public utility storage facilities, maintenance facilities, substations, treatment facilities, regulator stations, exchanges and business offices.
- h. Restaurants.

C. Dimensional Requirements.

- 1. Minimum Lot Area: twenty thousand (20,000) square feet.
- 2. Minimum Lot Width: one hundred feet (100').
- 3. Maximum Impervious Coverage: ninety percent (90%).
- 4. Minimum Open Space: fifteen percent (15%).
- 5. Maximum Building Height: thirty feet (30').
- 6. Minimum Front Yard Setback: twenty feet (20').
- 7. Minimum Side Yard Setback: fifteen feet (15').
- 8. Minimum Rear Yard Setback: twenty feet (20').

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.
 - 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 inches (4") in diameter and taller than five feet (5') above ground level.
- 2. Parking and loading areas shall be screened from view of any adjacent residential properties.

Section 17.246 Parks and Open Space District (POS)

A. Characteristics and Objectives. The POS 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. Agriculture, horticulture, and grazing activities if the El Paso County Assessor assesses the land as agricultural.
- 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.

3. Conditional Uses:

- a. Any use within public parks, recreation areas and open spaces which involves assembly of more than two hundred (200) persons together in one (1) building or group of buildings, or in one (1) recreational area or other public recreational facility.
- b. Public and private schools, colleges and places of worship.
- c. Private golf, tennis, swimming and riding clubs, rodeo facilities, hunting and fishing lodges and guide services.
- d. Semi-public and institutional uses such as convents and religious retreats.
- e. Keeping of horses subject to Chapter 17.45.

C. Dimensional Requirements.

1. Minimum Lot Area: one (1) acre.
2. Minimum Width Dimensions: one hundred feet (100').
3. Maximum Impervious Coverage: fifteen percent (15%) or three thousand (3,000) square feet.
4. Maximum Building Height: twenty-seven feet (27').
5. Minimum Front Yard Setback: twenty feet (20').
6. Minimum Side Yard Setback: twenty feet (20').
7. Minimum Rear Yard Setback: twenty feet (20').

D. Development Standards.

1. 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.
2. 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.

Section 17.248 Planned Unit Development District (PUD)

A. Purpose, Conditions and Standards.

1. Purpose. Planned Unit Developments (PUD) 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 when one or more following purposes can be achieved:
 - a. The provision of necessary commercial, recreational and educational facilities conveniently located 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 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 planned unit development 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 planned unit development:
- 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.
 - 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. As a general guide, twenty feet (20') between buildings is considered minimum distance for both nonresidential and residential buildings that are over one (1) story.
 - 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, Fountain Sanitation District, the Fountain Water Code, the State Department of Public Health and the local health authorities.
 - g. The development shall be designed to provide for necessary commercial, recreational and educational facilities conveniently located 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.

B. Evaluation Criteria. The following criteria shall be utilized by the planning commission and the city council in evaluating any plan for planned unit development:

1. 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. The open space requirement can be met through:
 - a. 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.
 - b. 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.
 - c. 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.
2. 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.
3. 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.
4. 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.
5. Architecture. The following architectural standard is intended to prevent monotonous streetscapes and offer consumers a wider choice of housing styles. 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). No home model elevation shall be repeated directly across the street from the same model elevation. Mirror

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

6. 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.
7. Minimum area. A PUD shall not be permitted on a parcel of land less than one (1) acre in area. The minimum area requirement may be waived upon adequate justification shown by the applicant.
8. 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.
9. 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.
10. 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.
11. 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.
12. The PUD shall provide for a variety in housing types and densities, other facilities, and common open space.
13. The PUD shall provide adequate privacy between dwelling units.
14. The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, and access to points of destination and attractiveness.
15. 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:
 - a. Its geographic location.
 - b. The probable effect on surrounding slopes and terrain.
 - c. Unreasonable adverse visual effects on adjacent sites or other areas in the vicinity.
 - d. Potential problems for adjacent sites caused by shadows, loss of air circulation or loss of view.
 - e. Influence on the general vicinity, with regard to extreme contrast, vistas and open space.
 - f. Uses within the proposed building.
 - g. Fire protection needs.

C. Special Conditions.

1. 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.
2. 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.
3. 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 following procedures may be initiated by the city council:
 - a. The city council may serve written notice upon such organizations or upon the residents of the PUD setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the time, date and place of a hearing thereon, which shall be held within fifteen (15) days of the date of notice.
 - b. At such hearing, the city council may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured.
 - c. If the deficiencies set forth in the original notice and in the modifications thereof are not cured within the period set, the City, in order to preserve the taxable values of the properties within the PUD and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for a period of one (1) year. Such entry and maintenance shall not vest in the public any rights to use the common open space except when it is dedicated to the public by the owners.
 - d. Prior to the expiration of the year of city maintenance, the city council shall call a public hearing upon notice to the organization responsible for the maintenance of the open space, or to the residents of the planned unit development, at which hearing the organization or the residents shall show cause why such maintenance by the city shall not continue for the succeeding year. If the city council determines that the responsible organization is not ready and able to maintain the open

space in a reasonable condition, the city, in its discretion, may continue to maintain the open space during the next succeeding year, and subject to a similar hearing and determination, in each year thereafter.

- e. The cost of maintenance by the city shall be paid by the owners of properties within the PUD that have a right of enjoyment of the open space, and any unpaid assessment shall become a tax lien in the office of the County Clerk and Recorder upon the properties affected by such lien to the city council and City Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.
4. Consent of landowners 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.

ARTICLE III. GENERAL REGULATIONS AND DEVELOPMENT STANDARDS

Chapter 17.30 Application of General Regulations and Development Standards

Section 17.300 Purpose. 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.

Section 17.302 Intent. 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 17.304 Application

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 17.60 or be retroactive on existing uses. However, these standards shall apply to all uses in all zoning districts under the following circumstances:

1. New buildings, signs, or construction that requires a plot plan or site development plan.
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 of the building or land, which requires a change in the zoning district or a conditional use permit.
4. A change in the occupancy of a building or the land, which requires other site improvements addressed in this article.

B. Administration: Prior to issuance of a building permit, conditional use permit, or granting of a change in use in any zoning district for any property, the applicant shall demonstrate that the property will comply with the following applicable regulations:

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 cashiers checks, performance bonds or other methods as deemed appropriate by the Zoning administrator to assure eventual compliance with this title.
2. 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.

Chapter 17.32 Lot Area Regulations

Section 17.320 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 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 17.34.

Section 17.322 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. Nonconforming 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 and other requirements set forth in the district in which the lot is located, provided that no lot area or lot width is reduced more than one-third (1/3) the zoning requirements otherwise specified by this title. If a nonconforming lot ever comes under the same ownership as a contiguous parcel it shall no longer be the same nonconforming 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 17.324 Land Quality Limitations

A. No structure can be built within one hundred feet (100') 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 feet (100') 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 17.326 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 17.328 Setback Requirements.

A. Transition. When a nonresidential use which is over fifteen feet (15') in height shares a common lot line with a residential use, the required side yard set back for the nonresidential use shall be at least twenty-five feet (25') and shall be maintained with landscaped plant material to include trees, shrubs, grasses and/or xeriscape plant material as determined by the Zoning administrator.

B. Setback Requirements for Accessory Structures.

1. Accessory structures and uses shall be set back a minimum of twelve feet (12') from the rear lot line.
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 feet (6') 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.
5. 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 feet (18') from the street property line.

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

D. Partially Developed Frontages. When a vacant lot is bordered on two (2) sides by previously constructed buildings both of which do not meet 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 feet (5').

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, subject to permit approval 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 feet (2') into the required setback provided they do not encroach on public easements.
6. Eaves that do not project more than two and one-half (2-1/2) feet into the required setback.
7. Open outside stairways, entrance hoods, terraces, canopies and balconies that do not project more than five feet (5') into a required front or rear setback and/or not more than two feet (2') into a required side setback, provided they do not encroach on public easements.
8. Chimneys, flues and residential ventilating ducts that do not project more than two feet (2') 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 17.33 Access, Approaches, Driveways, and Curb Cuts

Section 17.330 Application. The provisions of this chapter shall apply to all properties, public and private streets and public and private access easements and public and private rights-of-way.

Section 17.332 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.

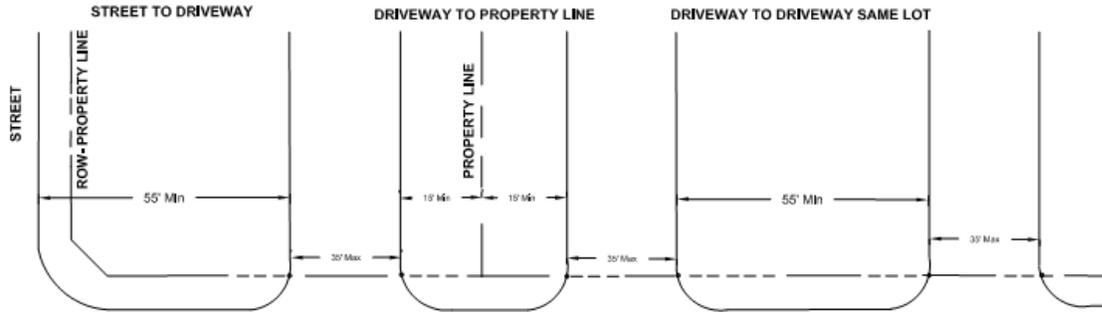
7. Whether parking is permitted on the street to which access is proposed.
8. The width of the street to which access is sought.
9. The posted speed limit on the street to which access is sought.
10. The distance of the proposed access approach, driveway, or curb cut from the curb line of the nearest 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') 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 feet (35') 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 feet (55') 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 17.332 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 feet (15') 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 17.332 -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 17.334 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 17.334-1 and Table 17.334.2 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 feet (3') in height and nine feet (9') 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 17-334-1: Sight Distance

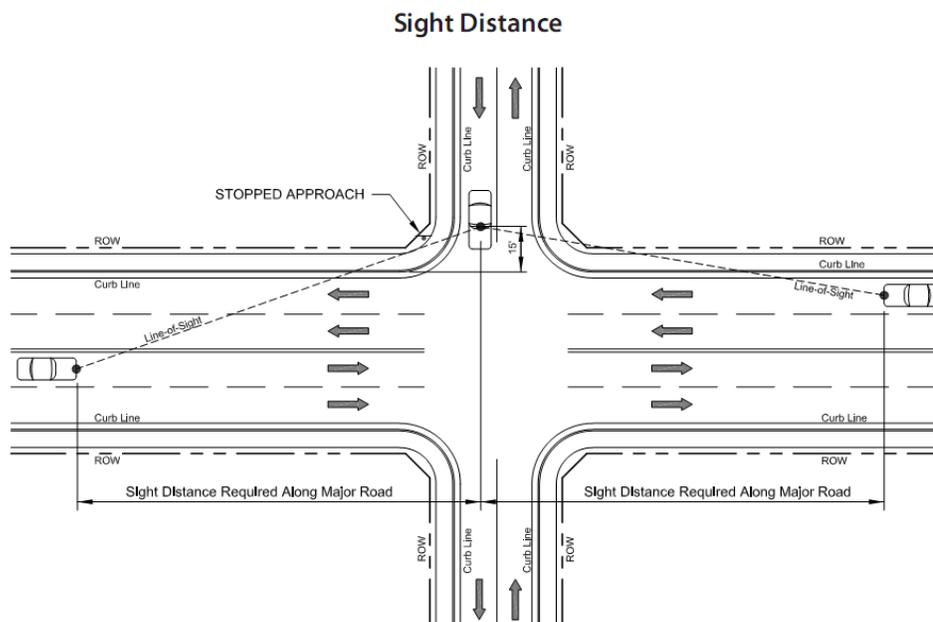


Table 17.334-2: Sight Distance

| Speed of Thru Roadway (MPH) | Minimum Sight Distance for Stopped Vehicle (FT) | Sight Distance | | | | | |
|-----------------------------|-------------------------------------------------|--------------------------------|-----|-----|---------------|-----|-----|
| | | 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 17.34 Off Street Parking: Development Standards and Procedures**Section 17.340 Provisions. Applicability and Maintenance-Responsibility of Owner.**

A. 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. The parking requirements contained herein are minimum requirements.

B. The parking requirements of this chapter must be met upon a) any construction of a new structure; b) any addition to or enlargement of an existing building or use; c) any change in use of a building or land that increases the building area or the developed land area of the use; or d) 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.

C. "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 17.341 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 17.342 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.** If an addition, enlargement, or change in use increases the building area of the use or 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 17.54 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.
 - a. **Parking Plan Exceptions:** A parking plan is not required for a change in use in a shopping center, except where a restaurant, movie theater or indoor entertainment facility will utilize over 20% of the gross floor area of the 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.
 - b. **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.

- c. 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.

C. Administrative Reduction of Required Parking Spaces. The zoning administrator may grant temporary or permanent reductions in the 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 fifty percent (50%) and shall meet the criteria set forth in this subsection C. for granting parking reductions. Administrative reductions may not be applied to the handicap parking requirements under Section 17.344 of this chapter.

1. Commercial and industrial uses in all zoning districts may be granted a maximum twenty-five percent (25%) 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 by a maximum of fifty percent (50%) if:
 - 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, transit stop, transit station or transit terminal; and
 - c. Structural coverage or mature landscaping on the site prevents any additional parking improvements.
3. Required off street parking may be waived in the downtown area if the city adopts and the property owner participates in a fees-in-lieu of parking program. The boundaries of the downtown area, fee-in-lieu amount, and types of parking facilities shall be defined as part of a parking program study.

Section 17.342 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.

| USE | NUMBER OF OFF-STREET PARKING SPACES REQUIRED |
|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Residential Dwelling Units | |
| Single family detached and two family attached (duplex) | 2 per dwelling unit |
| Mobile or manufactured | 2 per dwelling unit |
| Multi-family & Single-family attached | Studio – 1.1 per du 1 B – 1.5 per du 2B – 1.7 per du 3B – 2.0 per du Plus guest parking: 1 per 3 dwelling units |
| Accessory dwelling unit | 1 per accessory dwelling unit |
| Housing exclusively for elderly care | 3.3 per unit plus 1 space for each fulltime employee |
| Nursing home | 1 per 2.5 bed capacity |
| Residential facility for the disabled | 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 |
| Dormitory, sorority, fraternity | 1 per 2 beds |
| Boarding or lodging house | .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 |
| Automobile sales | 1 per 400 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 per bay |
| Retail, Entertainment and Office | |
| Bank* including branch and drive through | 1 per 300 square feet |
| Restaurant: standard sit down, fast food and drive in | 1 per 100 square feet 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 |

| USE | NUMBER OF OFF-STREET PARKING SPACES REQUIRED |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bar, Tavern & Nightclub | 1 per 100 square feet (including any outdoor seating or entertainment area) |
| Convenience store* | 1 per 300 square feet of floor area |
| Funeral home, mortuary and crematorium | 1 per 300 square feet of assembly area |
| Retail sales and general commercial* | 1 per 300 square feet |
| Retail sales – Large items (furniture, appliances, flooring) | 1 per 600 square feet. |
| Health & athletic club or studio, recreational amusement, and indoor entertainment facility | 1 per 125 square feet |
| Hotel and motel | 1.12 per room, suite/individual exit |
| Medical office, clinic | 1 per 200 square feet |
| Office (including finance, real estate, business professional, and telecommunication facility with employees) | 1 per 300 square feet plus 1 space for each company owned vehicle |
| Shopping Center: Less than 150,000 sq. ft. 150,000 to 399,999 sq. ft. 400,000 sq. ft. and greater | 1 per 250 square feet. 1 per 275 square feet 1 per 300 square feet |
| Stadium, arena, auditorium | 1 per 5 fixed seats |
| Theater | 1 per 40 square feet in the main assembly area |
| Commercial Stable | 1 per 5 animal stalls |
| Public, Quasi Public and Institutional | |
| College: public or private | 1 per 2 students |
| Day care or nursery | 1 per each employee, plus 1 space per six children, plus one per facility owned vehicle Home daycares – no employee parking required unless otherwise required in Section 17.342D. |
| Hospital | 1 per 2 bed capacity |
| Library, museum or gallery | 1 per 300 square feet |
| Place of worship | 1 per 4 seats in main assembly area |
| Public assembly and civic association hall (includes all facilities used for receptions and conventions) | 1 per 40 square feet in the primary meeting room or assembly area |
| School (1) Through junior high (2) High school and college | 2 per classroom 10 per classroom |
| Manufacturing & industrial uses | |

| USE | NUMBER OF OFF-STREET PARKING SPACES REQUIRED |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Contractor yard, contractor business service, construction business | 1 per 500 square feet |
| 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 or 1 per employee on maximum shift |
| Manufacturing, processing or assembly | 1 per 500 square feet |
| Self service storage facility | 1 per 100 units plus 3 at the registration area 2 per resident caretaker quarters |
| Warehouse with storage, no freight movement | 1 per 1,000 square feet for the first 10,000 square feet then 1 per 10,000 square feet for the remaining area |
| Warehouse with freight movement | 1 per 1,000 square feet |
| 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 17.346 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 17.343 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. 2.3 = 2 and 2.7=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 17.344 Handicap Parking Requirements – 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.

A. 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:

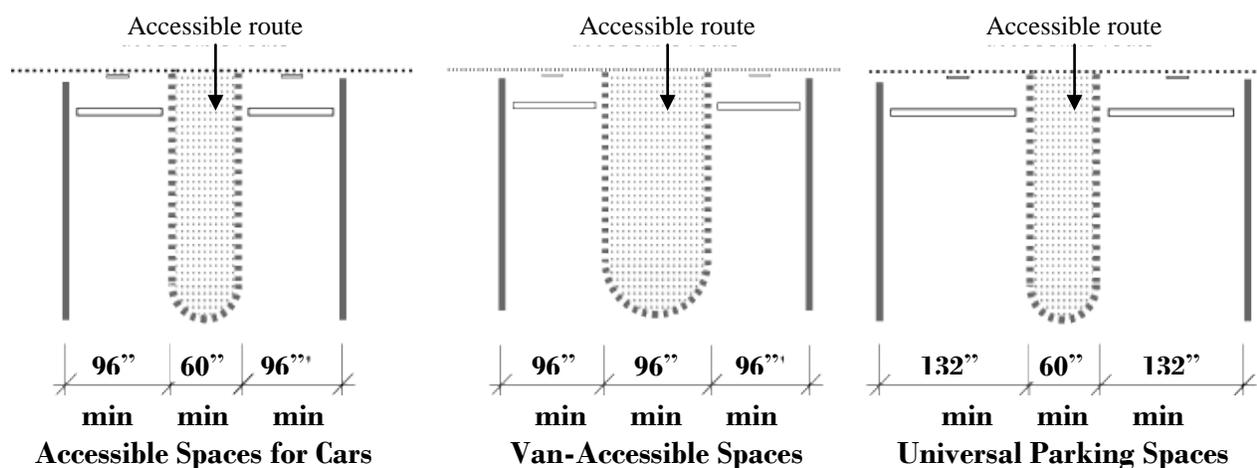
Table 17.344 – 1: Required Number of Handicap Accessible Parking Spaces

| Total Required Parking Spaces | Minimum Required Accessible Spaces |
|-------------------------------|------------------------------------|
| 1-25 | 1 |
| 26-50 | 2 |
| 51-75 | 3 |
| 76-100 | 4 |
| 101-150 | 5 |

| Total Required Parking Spaces | Minimum Required Accessible Spaces |
|-------------------------------|------------------------------------------------------------------------------|
| 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 |

B. 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 feet (200').

C. Size. Standard accessible handicap spaces shall be no less than eight feet (8') wide with an adjacent access aisle of no less than five feet (5') in width. Van accessible spaces shall be no less than eight feet (8') wide with an adjacent access aisle of no less than eight feet (8') in width. In the alternative, the parking may be designed to conform with the ADAAG "universal" parking space design of an eleven feet (11') wide parking space with an adjacent access aisle of no less than five feet (5') 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 spaces.

Figure 17.344-1: Handicap Accessible Parking Space Dimensions

D. 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 contrast 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 nonconforming 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.

E. 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 (see Figure 17-385-6) Signs and pavement markings shall comply with Section 17.385 (H) and the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the City.

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

Section 17.345 Restrictions

A. Residential Weight Restrictions. Off street parking spaces for residential uses shall be used by vehicles up to but not exceeding four (13) 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: a) the parking or storage of automobile trailers, boats, detached campers or any other object; b) the sale, repair dismantling or servicing of any vehicle, equipment, material or supplies; c) the temporary or permanent display of goods; d) temporary or permanent signage; e) dumpsters; or f) 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 17.346. 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 Section 17.346 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: a) 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; b) the alley surface is paved; and c) 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 feet (8'), 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 17.346-1: 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 17.347 Parking Area Design Standards

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

B. Surface standards. All parking areas shall be properly graded for drainage and surfaced with portland cement concrete, asphalt concrete or other acceptable surfacing as determined by the city engineer and 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 17.332 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 feet (5') 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 foot (7') wide sidewalk shall be required where vehicles overhang a sidewalk. A minimum two feet (2') 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 multi-family 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 feet (20') 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 feet (25').

I. Shopping cart management. All retail uses larger than 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.

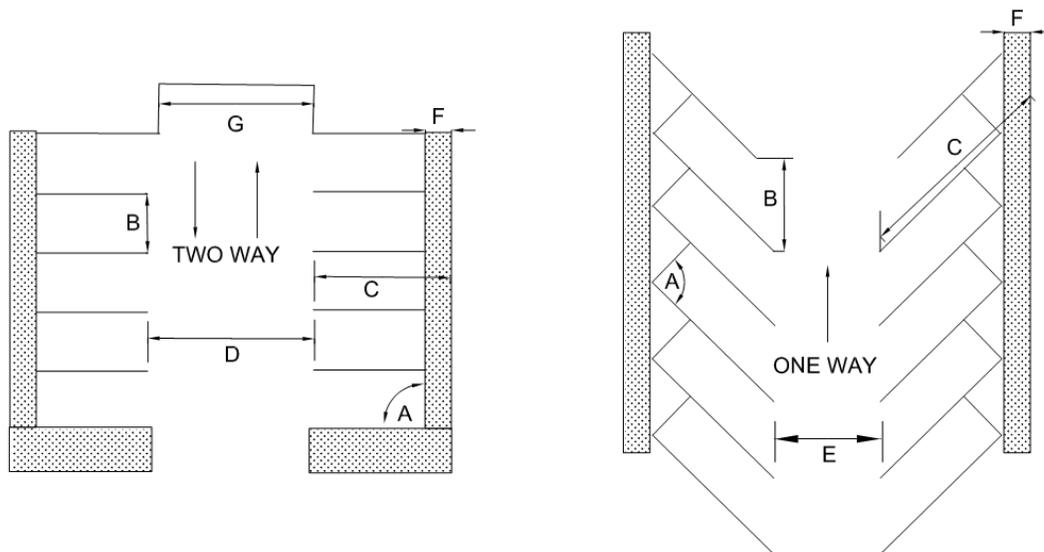
J. Bicycle facilities and parking. Commercial, industrial, and multi-family residential uses shall provide bicycle facilities to meet the following standards:

1. Required number: The minimum number of bicycle parking spaces shall equal 5% of the number of required parking spaces. At least one bicycle parking space shall be provided.
2. Location: For convenience and security, bicycle parking facilities shall: (1) be located near building entrances, (2) be visible from the land uses they serve and (3) not be located in remote automobile parking areas. 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 2 feet in width and 5½ feet in length, with additional back-out or maneuvering space of at least 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. Two extensions of one year each may be granted by the zoning administrator upon submittal of a request specifying the reasons for the extension and the estimated date by which the permanent facility will be constructed.

L. Parking and loading dimensions are shown in Figure 17.347-1.

Figure 17.347-1: 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 |
|------------------------------|-------------------------------|--------------------------------|-------------------------------------|-------------------------------------|---------------------------|----------------------------------------|
| 0 | 9 | 22 | 20 | 12 | 0 | Depth: 5 ft |
| 30 | 9 | 17 | * | 12 | 1.5 | Width: Same width as drive aisle |
| 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 | |

COMPACT PARKING SPACE DIMENSIONS

| A Parking Angle | B Width of Space | C Length of Space | F Over-hang |
|------------------------------|-------------------------------|--------------------------------|-----------------------|
| 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 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 occupations.

Chapter 17.35 Off Street Loading

Section 17.350 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 17.352 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 17.352-1 below. Each loading berth shall provide not less than fourteen feet (14') vertical clearance.

Table 17.352-1: 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 17.37 Landscaping, Fencing and Screening

Section 17.370 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.

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.

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 inch (2 1/2") caliper.
2. Evergreen trees: Six feet (6'). Shrubs: Five (5) -gallon containers.
3. Ground cover/perennial sizes shall be selected according to growth rate, spacing and the area to be covered.
4. Thorne plant material shall not be located adjacent to public walks.
5. Clear space above public walks shall be nine feet (9') or greater.
6. Artificial plants shall not be used to comply with the requirements of this section.
7. No more than fifty percent (50%) of an area can be covered by non-living landscaping material.
8. 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 feet (15') 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 feet (20') 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 feet (10') 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 feet (20') of street frontage.
3. Clustering of trees and shrubs in the landscaped strip is permitted, provided no tree shall be within five feet (5') 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 shall be placed in a landscape island. All deciduous trees shall be a minimum of two and one half inch (2-1/2 ") 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 feet (6') 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 17.372 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 six feet (6'), unless it can be shown to the satisfaction of the Zoning administrator, that adjacent use, views and vistas are not obstructed or there are other compelling reasons for the additional height.

D. Barbed wire or other sharp-pointed material shall not be used in the construction of any fence unless a conditional use permit is approved by the city council provided, however, this subsection shall not prohibit the use of such material 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 feet (6') above grade.
2. Used for agricultural purposes or fencing required for livestock, including horses, on areas five (5) acres or greater in size.

E. Electrified wire fences are allowed in all zoning districts.

F. 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-or-way is the responsibility of the property owner.

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

Section 17.374 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 or refuse collection areas shall be enclosed by a six foot (6') high solid wood 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 17.375 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 17.38 Signs

Section 17.380 Purpose

- A. The purposes of this chapter are to:
1. Encourage the effective use of signs as a means of communication in the city;
 2. Maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;
 3. Preserve the residential character of residential neighborhoods;
 4. Preserve order and cleanliness;
 5. Avoid the appearance of clutter;
 6. Protect property values;
 7. Avoid litter and the growth of weeds around signs;
 8. Improve and maintain pedestrian and traffic safety;
 9. Reduce traffic hazard caused by distractions to motorists and impairment of sight lines;
 10. Ensure that the city remains an attractive place to live and work;
 11. Reduce administrative burdens;
 12. Minimize the possible adverse effect of signs on nearby public and private property;
 13. Provide a reasonable balance between the right of a business or individual to identify itself and its purpose, and the right of the public to be protected against the visual discord that results from the unrestricted proliferation of signs;

14. Protect the health, safety, welfare, morals, convenience and comfort of the public; and
15. Enable the fair and consistent enforcement of these sign restrictions.

Section 17.381 Administration

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.

1. If any provision of this chapter conflicts with any other adopted city code that regulates signs, this chapter shall govern.
2. Signs shall be permitted in the various zoning districts as accessory structures in accordance with the regulations contained in this chapter.

B. Interpretation: Signs in the CMU, MU, NC, VC, RC, BP, SO, and PI zoning districts, and non-residential land use designations within a PUD zoning district shall be subject to the standards and regulations herein designated for non-residential zoning districts. Signs in the LLR, RA, R1, MF, MHP, MHS, POS, and RMU zoning districts and residential land use designations within a PUD zoning district shall be subject to the standards and regulations herein designated for residential zoning districts. The Zoning Administrator is authorized to designate any other zoning districts not listed and make interpretations on designations within a PUD.

C. Application. 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 17.382. 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.

1. All sign permit applications shall be submitted on a form supplied by the Planning Department and include, at a minimum, the following information:
 - a. Street address of the proposed sign.
 - b. Actual shape and dimensions of the lot.
 - c. Building locations, height and dimensions.
 - d. Size, height, location, setback and type of both existing and proposed signs.
 - e. Name, mailing address (and e-mail address if available) and telephone number of owner and sign installer.
 - f. Existing zoning.
 - g. Elevation drawings of the proposed sign.
 - h. Location of existing signs on the property and on adjoining properties.
 - i. Additional information as the zoning administrator may reasonably deem necessary to process the application in accordance with the provisions of this chapter.
2. Approval of a sign permit expires one 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.

- a. 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.
 - b. Applicant shall contact the Planning Department for a final site inspection upon completion of sign installation.
3. Sign permits are required for temporary signs, as follows:
- a. A sign permit for temporary commercial signs may include one or more signs, including a combination of banners, blimps, strings of light bulbs, and wind or fan-driven signs.
 - b. 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 17.386. A temporary sign permit that contains a sign plan for multiple signs may be issued for a time period of up to one (1) year, with individual temporary sign durations not to exceed the timeframes established by temporary sign type in Section 17.386.
 - c. A temporary sign permit shall not be required for non-commercial signs, unless such signs are to be installed in the public right-of-way (see Section 17.381 D and 17.383 B) in which case the signs shall require a revocable permit.

D. Revocable Permit. Excluding ideological signs, a revocable permit is required from the City Clerk prior to the placement or erection of any sign in the public right-of-way or on public property. The revocable permit may contain such requirements as the City Clerk reasonably deems necessary unrelated to the content of the sign to assure the sign and its placement are consistent with this title and safety and welfare of the city.

E. Master Sign Plan. For any shopping center, industrial or business park or similar commercial complex the applicant shall submit a master sign plan that consists of coordinated, shared signage for the entire development. 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.

1. 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 aggregate 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.
2. In exchange for a creative and quality design, one or more of the above-listed standards may be altered up to twenty five (25) percent 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.

F. Non-conforming signs. Existing on-premise signs for which a sign permit was issued pursuant to the previous provisions of this chapter, and which have become nonconforming because of subsequent amendments to said chapter, shall be maintained in good condition and no such sign shall be:

1. Structurally changed to another nonconforming sign, although its copy may be changed.
2. Structurally altered in order to prolong the life of the sign, except to meet safety requirements, altered to increase the degree of nonconformity of the sign, or enlarged.
3. Re-established after damage or destruction if the estimated cost of reconstruction exceeds seventy (70) percent of the total structure, as determined by the zoning administrator.

Section 17.382 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 article, and the construction and safety standards of the city.

1. Official governmental signs or signs erected on behalf or pursuant to authorization of a governmental body, including but not limited to traffic control, legal notice and wayfinding signs.
2. Change of copy or message on legally permitted signs; provided that no structural changes are made to the sign, and provided that the name of the business to which the sign belongs is not changed.
3. Customer information signs less than six (6) square feet in sign area, as defined in Section 17.389. Such signs may be attached to the building, as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign.
4. External use signs limited to an aggregate sign area of forty (40) square feet in area, as defined in Section 17.389.
5. Building identification and address signs not to exceed two (2) square feet in area for the purpose of identifying the name of a building, date of erection or other historical information.
6. Ideological signs, as defined in Section 17.389.
7. Signs erected by public utility companies, oil and gas companies, or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.
8. Any sign displayed on a window of a residential building, inside a residential building, and any sign inside a non-residential building that is not visible through a window.
9. Murals or works of art, as defined in Section 17.389.
10. Scoreboards in sports stadiums or fields.

11. Memorial signs, as defined in Section 17.389.
12. Private notification signs, such as “no trespassing”, “no dumping” and similar signs which do not exceed two (2) square feet in area, limited to four (4) such signs per use or per building, whichever is the greater number.
13. Temporary decorations or displays, if they are clearly incidental to, customarily, and commonly associated with any national, state, or local holiday or religious celebration; such signs may be of any type, number, area, height, location, illumination or animation.
14. Signs carried by a person and not set on or affixed to the ground.
15. Signs which identify restrooms, public telephones or provide instructions as required by law or necessity, provided the sign does not exceed two (2) square feet in area, such as “no smoking,” “restrooms,” “no solicitors,” “self-service” and similar signs.
16. Vending machine signs provided that the advertisement upon the vending machine sign is limited to the product vended.
17. Community Event Signs and Displays. Temporary decorations, and/or non-commercial signs including, but not limited to those associated with school activities, government-sponsored events, non-profit organizations, celebrations, or commemorations that have significance to the entire community. All event notices shall be displayed no earlier than fourteen (14) days prior to the event and removed within three (3) days of the event’s completion.
18. National, State, City or other political subdivision flags.
19. Corporate or decorative flags not exceeding fifteen (15) square feet in area.

Section 17.383 Prohibited Signs

A. The following signs are prohibited except as noted:

1. All signs not expressly permitted under this chapter or exempt from regulation in accordance with the previous section are prohibited in the city.
2. Searchlights or similar devices used in connection with commercial premises for commercial purposes.
3. Vehicles or trailers parked on public right-of-way or public property, or on private property, so as to be visible from public right-of-way, which has attached thereto or located thereon one or more signs for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby premises. This provision is not intended to prohibit any form of vehicular sign, such as an ideological sign, or a sign attached to a motor vehicle primarily used for purposes other than advertising.
4. Off-premise signs, as defined in Section 17.389, apart from those exceptions listed in Section 17.385 K.
5. Signs that emit any sound which is intended to attract attention.
6. Signs attached to trees or other plant materials.

B. No sign shall be attached to any utility pole or traffic control device; nor placed on any street, sidewalk or other public right-of-way. No sign shall be placed on any city property, unless a revocable permit is obtained prior to the placement or erection of the signs in accordance with Section 17.381 D.

1. 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.
2. In no event shall the following temporary sign types be permitted in the public right-of-way:
 - a. Balloons, Blimps and Inflatable Displays;
 - b. Banners including wave banners;
 - c. Construction signs, except as provided for in Section 17.386 C;
 - d. Model Complex signs, except directional signs provided for in Section 17.386 E 3; and
 - e. Real Estate signs, except off-premise real estate signs provided for in Section 17.386 H 4.

C. No sign shall obstruct the use of sidewalks, walkways, bike and hiking trails; the visibility of vehicles, pedestrians or traffic control signs; or any other existing sign. No sign shall be permitted which may obstruct the view in any direction at the intersection of a street or with an alley or driveway. All signs shall be, at a minimum, subject to the visibility provisions of Section 17.334. 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. 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 not longer legible, may be removed by the City.

Section 17.384 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 17.384-1).

Figure 17.384-1: Sign Measurement Detail

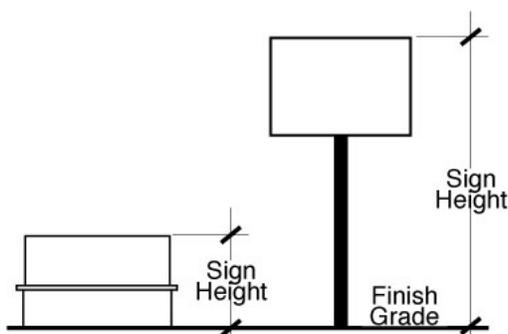


2. Any supporting framework, bracing, poles, fence or wall, or architectural feature or landscape element that is clearly incidental to the sign display shall not be computed as sign area.
3. For the purpose of determining sign area and the allowable number of wall signs, a wall shall be considered the entire building side or elevation, and not each articulated wall face per building side or elevation.

4. All sign faces visible from one 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 of the sign faces.
5. The maximum aggregate sign area for all allowable on-premise permanent signs shall not exceed three hundred (300) square feet in area with the exception of signs located within a one-quarter (1/4) mile radius of an interstate highway interchange as described below.
6. For a non-residential use located within a one-quarter (1/4) mile radius of an interstate highway interchange, a freestanding pole sign with a sign area of up to four hundred and eighty (480) square feet is permitted in addition to all other signs on the site not exceeding three hundred (300) square feet in aggregate sign area provided that such sign is in compliance with the Colorado Outdoor Advertising Act and the regulations promulgated thereunder. Freestanding pole signs proposed to be erected within a one-quarter (1/4) mile radius of an interstate highway interchange shall not be eligible for the bonus provided in Section 17.381 E 2.
7. The allowable sign area for exempt signs listed in Section 17.382 shall not be included in maximum aggregate sign area calculations; however, exempt signs that exceed their maximum allowable sign area, where applicable, shall be included in maximum aggregate sign area calculations.
8. Temporary uses as identified in Section 17.393 (Temporary Uses) shall have a maximum aggregate sign area of twenty five (25) square feet. This maximum sign aggregate shall be in addition to the maximum sign area aggregate of three hundred (300) square feet for on-premise permanent signs for the property on which the temporary use is located.

B. 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 17.384-2). The grade shall not be artificially changed solely to affect the sign height measurement.

Figure 17.384-2: Sign Height Detail

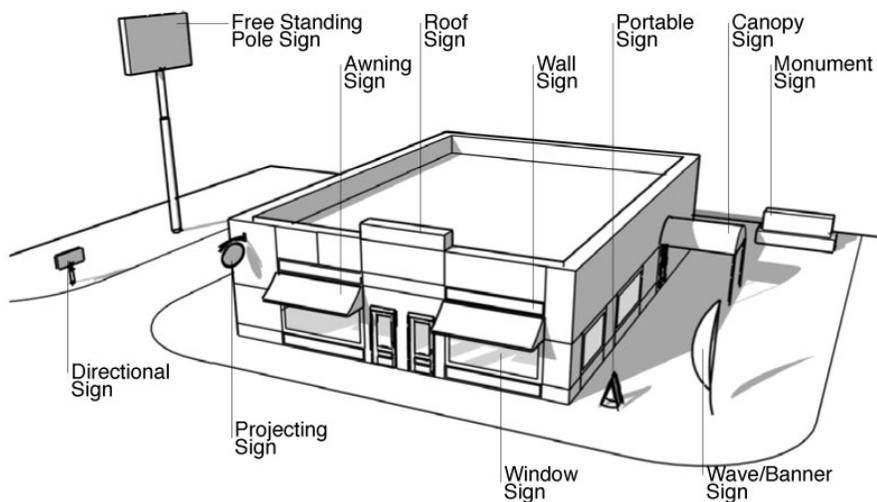


Section 17.385 Standards for Specific Sign Types

A. General. The following standards are applicable to all 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.
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. Lighting. 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.
4. Overhangs. The lowest point of a sign that extends over an area intended for pedestrian use shall not be less than nine (9) feet above the finished grade below it. The lowest point of a sign that extends over an area intended for vehicular use shall not be less than fourteen (14) feet above the finished grade below it.

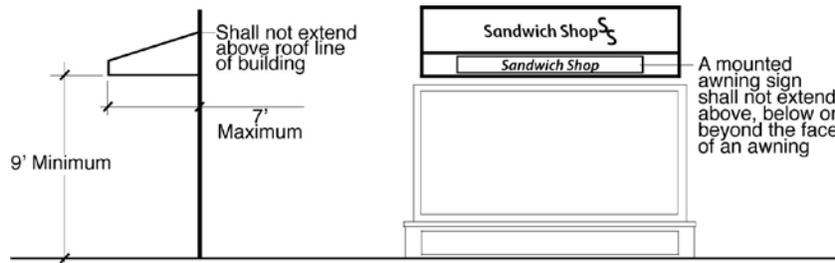
Figure 17.385-1: Sign Type Examples



B. Awning Signs.

1. Location. 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. Quantity, Area and Height. Sign quantity and area shall comply with the requirements established by Section 17.387 (Sign Standards by Zoning District). 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, with or without signage, 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.

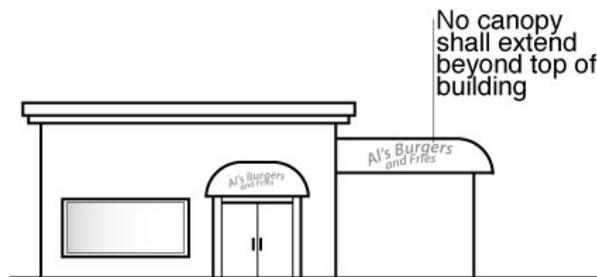
Figure 17.385-2: Awning Sign Detail



C. Canopy Signs.

1. Quantity, Area and Height. Sign quantity and area shall comply with the requirements established by Section 17.387 (Sign Standards by Zoning District). No canopy, with or without signage, shall extend above the roof line of any building. 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 17.385-3: Canopy Sign Detail



D. Directional Signs.

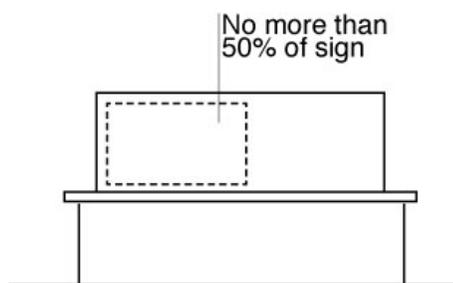
1. Location. On-premise entrance, exit, and other directional signs shall be allowed per a sign plan approved by the zoning administrator. The signs shall be no closer than five (5) feet from any property line.
2. Quantity, Area and Height. The sign shall comply with the quantity, area and height requirements established in 17.387 (Sign Standards by Zoning District).

E. Electronic Message Centers.

1. Location. An electronic message center may be integrated into a non-residential, on premise, freestanding pole or monument sign only. Existing signage proposed for conversion to the use of an electronic message center 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 electronic message center.

2. Quantity, Area and Height. The sign shall comply with the quantity, area and height requirements established for freestanding pole or monument signs in Section 17.387 B (Standards for Non-Residential Zoning Districts). The maximum size of an electronic message center on any individual sign shall not exceed fifty percent (50%) of allowable sign area (see Figure 17.385-4). Electronic message centers shall not be eligible for the bonus provided in Section 17.381 E 2.
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 electronic message center 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 17.385-4: Electronic Message Center Detail



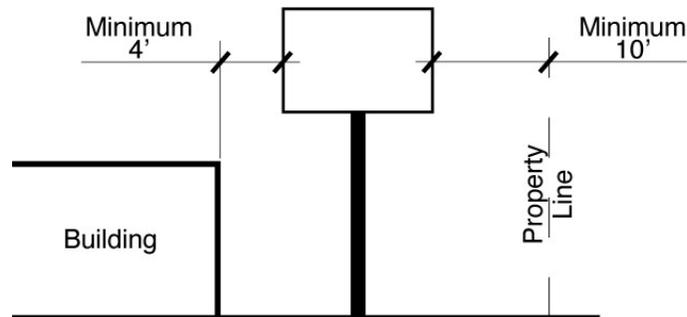
F. Flags.

1. Location. Corporate flags shall only be permitted in non-residential zoning districts; all other flags are allowed in any zoning district. No part of any flag shall, when fully extended, protrude over any public right-of-way in any direction.
2. Area and Height. No flag shall exceed one hundred (100) square feet in area. Flagpoles shall not exceed thirty (30) feet in height; except within a one-quarter (1/4) mile radius of an interstate highway interchange, a flagpole shall not exceed sixty (60) feet.

G. Freestanding Pole Signs.

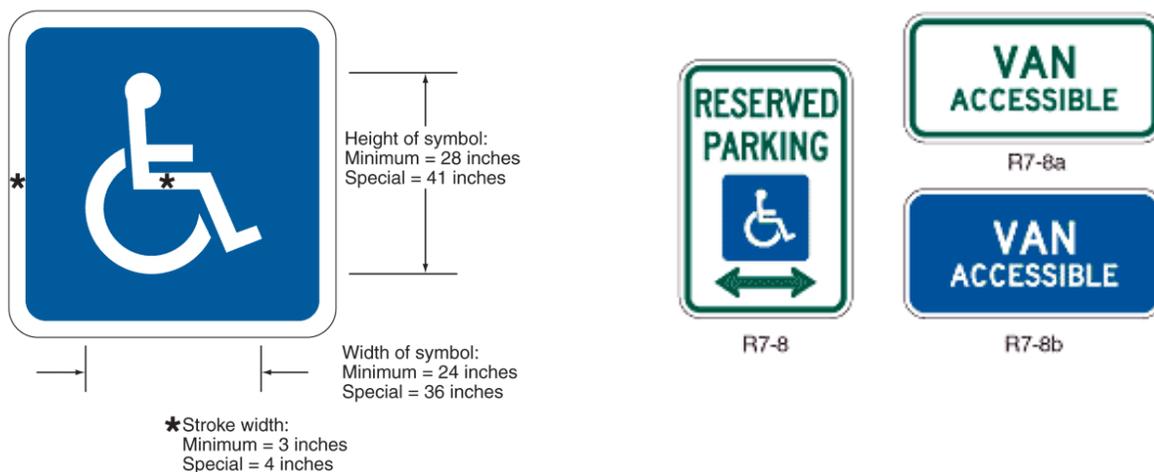
1. **Location.** The sign shall be located on a site frontage adjoining a public or private street, easement or right-of-way. No freestanding sign in any zoning district can be erected closer than ten (10) feet from any property line, or closer than four (4) feet to any building (See Figure 17.385-5). No freestanding signs in a non-residential zoning districts shall be located less than twenty-five (25) feet from any property line adjacent to a residential zoning district line.
2. **Quantity, Area and Height.** The sign shall comply with the quantity, area and height requirements established in Section 17.387 (Sign Standards by Zoning District).
3. **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 17.385-5: Freestanding Pole Sign Detail



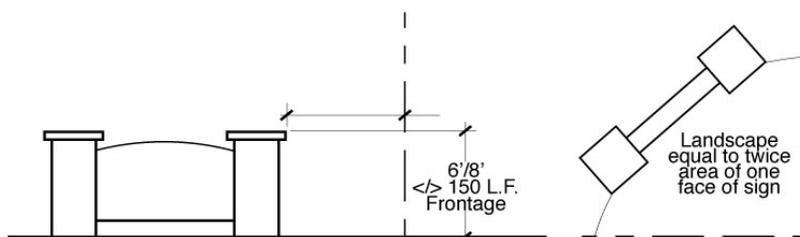
H. Handicap Parking Signs.

1. **Location.** Handicap parking space signage shall be installed as required by Section 17.344 and show the symbol of accessibility (see Figure 17.385-6).
2. **Quantity, Area and Height.** The sign shall be a minimum twelve (12) inches wide and eighteen (18) inches high centered between three (3) feet and five (5) feet above the ground at the head of the required space and may be mounted on a pole or structure. The sign shall have a white background with green lettering stating “Reserved Parking” and the white international symbol of accessibility on blue background. Van accessible spaces shall have an additional sign, “Van Accessible”, mounted below the symbol of accessibility. The accessibility parking space shall be striped in white on the pavement and marked with the international symbol of accessibility. The symbol shall be a minimum twenty-eight (28) inches in height and twenty-four (24) inches in width with the blue background symbol and optional white border.

Figure 17.385-6: Handicap Parking Sign Details

J. Monument Signs.

1. Location. The sign shall be located on a site frontage adjoining a public or private street, easement or right-of-way. The minimum setback from any property line shall be equal to the height of the sign. Upon approval of the zoning administrator, a monument sign can be integrated into a fence or wall.
2. Quantity, Area and Height. The sign shall comply with the quantity, area and height requirements established in 17.387 (Sign Standards by Zoning District).
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 17.385-7: Monument Sign Detail

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

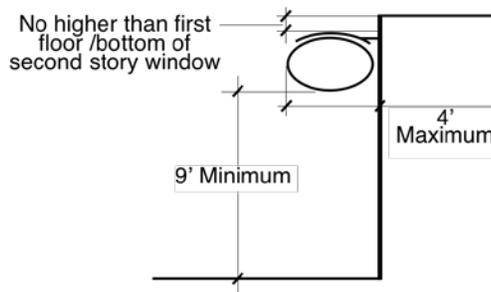
1. Signs within a commercial center established through a master sign plan per Section 17.381 E.

2. Directional signs within a residential subdivision consisting of multiple filings with similar names.
3. Certain temporary signs as described in Section 17.386.
4. Billboards existing prior to the adoption of Ordinance Number 785.

L. Projecting Signs.

1. Location. Projecting signs shall be placed on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access.
2. Quantity, Area and Height. Sign quantity and area shall comply with the requirements established by Section 17.387 (Sign Standards by Zoning District). 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.
3. Projection. The sign shall not extend more than four (4) feet from the building wall.

Figure 17.385-8: Projecting Sign Detail

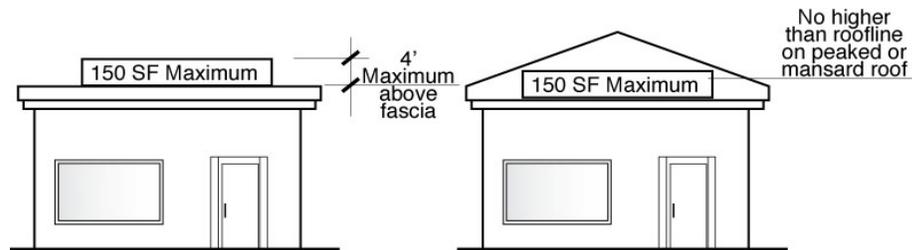


M. Roof Signs.

1. Location. A permanent on-premise, non-residential use roof sign may be permitted 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 electronic message board.

2. **Quantity, Area and Height.** The sign shall comply with the quantity, area and height requirements established in Section 17.387 B (Standards for Non-Residential Zoning Districts).

Figure 17.385-9: Roof Sign Detail



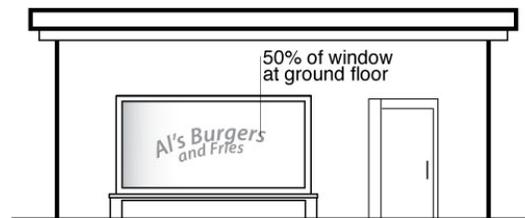
N. Wall Signs.

1. **Location.** The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail.
2. **Quantity, Area and Height.** The sign shall comply with the quantity and area requirements established in Section 17.387 (Sign Standards by Zoning District). Wall signs shall not be higher than the eave line of the principal building.
3. **Projection.** 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.

O. Window Signs.

1. **Maximum area.** 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:
 - a. Fifty (50) percent of the window or door area at the ground floor level.
 - b. Fifty (50) percent of the total allowable sign area for the premises.
2. **Lighting.** All illuminated window signs shall be included in the total allowable sign area for the premises.

Figure 17.385-10: Window Sign Detail



P. Home Occupation Signs.

1. **Location:** The sign may be placed on the wall of any structure or fence or mounted in the yard.
2. **Quantity, Area and Height:** Only one sign per residence not exceeding four (4) square feet in area. Signs placed in the yard may not exceed three (3) feet in height (See Figure 17.386-6). Signs placed on fences may not be placed

higher than the top of the fence. Signs placed on buildings shall be no higher than the roof or parapet line.

3. No home occupation sign shall be illuminated, animated or constructed of reflective materials.

Section 17.386 Temporary Signs.

A. Balloons, Blimps and Inflatable Displays. Balloons, blimps, or other inflatable displays are allowed for grand openings and special events within any zoning district, provided that such events shall not to exceed fourteen (14) days during any one (1) three month period during a calendar year. Display time may be any combination of consecutive days or equal weekend periods and may occur up to four times in a calendar year. Balloons, blimps and other inflatable displays shall be securely anchored or tethered to the ground, building or structure.

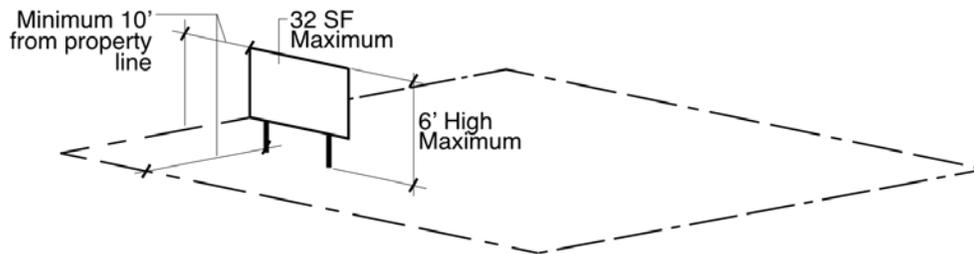
B. Banners.

1. Banners shall not exceed one-fifth (0.20) square feet of area per lineal foot of property line on residentially zoned or RMU zoned lots, up to a maximum area of one hundred (100) square feet.
2. Banners shall not exceed one and one-half (1.50) square feet for each linear foot of exterior wall for all lots that are not zoned residentially or on RMU zoned lots.
3. Allowable square footage can be split among several banners or allocated to one single banner.
4. No banner shall be illuminated, animated or constructed of reflective materials.
5. Each banner must be kept in good repair (not frayed, ripped, faded or sagging) and 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 17.383; banners shall not be attached to vehicles.

C. Construction Signs.

1. Construction projects. One (1) sign shall be allowed per lot. The sign shall not exceed thirty-two (32) square feet in area, and shall not be erected until a building permit has been issued for the building or structure on the lot. The sign shall be setback a minimum of ten (10) feet from any property line, and shall not exceed six (6) feet in height. The sign shall be removed within fourteen (14) days after the issuance of a certificate of occupancy for the building or structure. Off-premise signs directing the public to a business during road construction shall be allowed; if within public right-of-way, the off-premise sign shall be subject to a revocable permit obtained in accordance with Section 17.381 D.

Figure 17.386-1: Construction Sign Detail

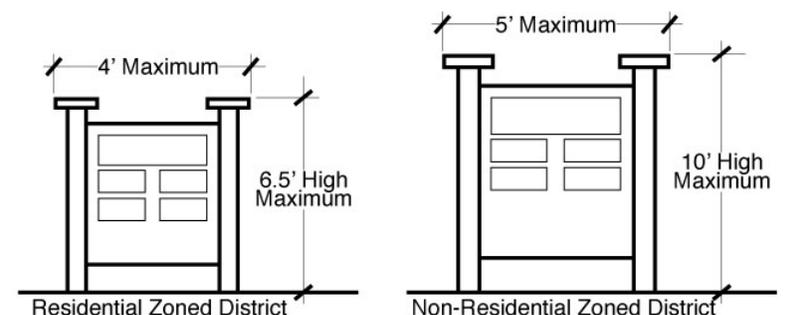


2. Building or site improvement projects. One (1) sign per business for building or site improvement companies conducting repairs or improvements to structures, buildings or landscaping on a lot. The sign shall not exceed four (4) square feet in area and three (3) feet in height. The sign shall only be erected during construction and be removed within fourteen (14) days after the completion of the project.

D. **Directional Sign Plazas.** These signs are intended for the advertising of vacant lots or model homes that need traffic to be directed for sales purposes. Off premise, directional sign plazas that list homebuilders and directions to model homes or vacant lots are permitted in any zoning district. Notwithstanding any other provisions of these regulations, the zoning administrator may approve and permit off premise, directional sign plazas subject to the following requirements and limitations:

1. Individual homebuilder signs are not allowed unless they are a part of an approved directional sign plaza application submitted by the developer, and not an individual homebuilder, for a residential development project.
2. Directional sign plazas shall not exceed six and one half (6.5) feet in height and four (4) feet in width in residential zoned districts, and ten (10) feet in height and five (5) feet in width in nonresidential-zoned districts. See Figure 17-386-2.
3. Directional sign plaza structures shall be ladder type with individual sign panels for each homebuilder of uniform design.
4. Directional sign plazas, or any part thereof, shall not be illuminated.
5. Directional sign plazas shall include a breakaway design if located within public rights-of-way.

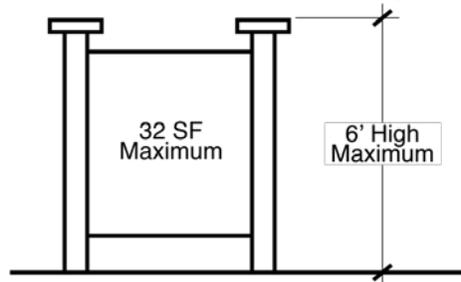
Figure 17.386-2: Directional Sign Plaza Detail



E. **Model Complex Signs.** These signs shall be located on the project site and conform to the following requirements:

1. One (1) sign per complex not to exceed thirty-two (32) square feet in area, or more than six (6) feet in height (see Figure 17-386-3).
2. One (1) sign per model not to exceed six (6) square feet in area.
3. Two (2) directional signs, not to exceed four (4) square feet each. Directional signs shall only be located within the model complex or at the entryway to the development.
4. Signs are to be removed when complex ceases to be model home complex.

Figure 17.386-3: Model Complex Sign Detail



F. Portable Signs. Portable signs shall be securely anchored to the ground, a building, or structure, and weighted sufficiently to prevent movement by wind. A portable sign shall be displayed only during business hours of operation.

1. No more than one (1) portable sign shall be permitted per business, per street frontage.
2. A portable sign shall not exceed sixteen (16) square feet in area.
3. A portable sign shall not exceed four (4) feet in height.

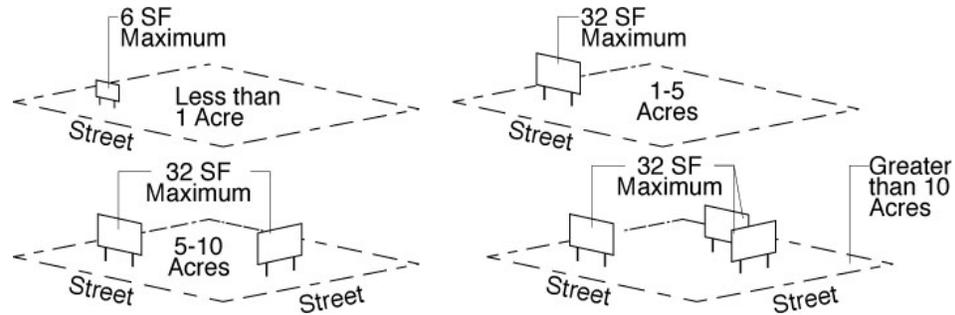
G. Posted Notice Signs. Posted notice signage required by Section 17.612 B. shall consist of at least one (1) sign facing each adjacent public right-of-way. In the case of a variance request at least one (1) sign shall be posted on site in the general vicinity of where the variance is being considered.

H. Real Estate Signs.

1. Residential Zoning Districts and Uses:

- a. Less than one (1) acre: one (1) sign per street frontage not to exceed six (6) square feet in area per sign.
- b. One (1) to five (5) acres: one (1) sign per street frontage not to exceed thirty-two (32) square feet in area per sign.
- c. Five (5) to ten (10) acres: two (2) signs not to exceed thirty-two (32) square feet per sign, or one (1) sign not to exceed sixty-four (64) square feet in area.
- d. Greater than ten (10) acres: three (3) signs not to exceed thirty-two (32) square feet per sign, or two (2) signs not to exceed forty-eight (48) square feet, or one (1) sign not to exceed ninety-six (96) square feet.

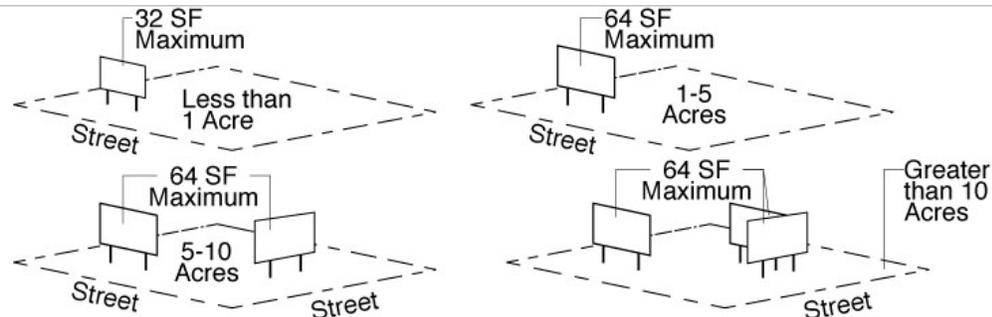
Figure 17.386-4: Residential Real Estate Sign Details



2. Nonresidential Zoning Districts and Uses:

- a. Less than one (1) acre: one (1) sign per street frontage not to exceed thirty-two (32) square feet in area per sign.
- b. One (1) to five (5) acres: one sign per street frontage not to exceed sixty-four (64) square feet in area per sign.
- c. Five (5) to ten (10) acres: two (2) signs not to exceed sixty-four (64) square feet in area per sign, or one (1) sign not to exceed one hundred twenty-eight (128) square feet in area.
- d. Greater than ten (10) acres: three (3) signs not to exceed sixty-four (64) square feet in area per sign, or two (2) signs not to exceed one hundred twenty-eight (128) square feet in area per sign.

Figure 17.386-5: Nonresidential Real Estate Sign Details



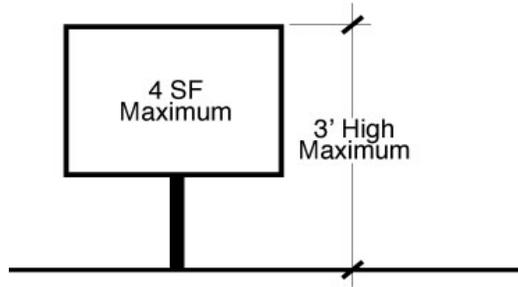
3. Residential and non-residential real estate signs are to be removed fourteen (14) days after sale or lease of property.
4. Off-premise signs directing the public to a home or lot for sale or home for rent shall be allowed in any zone district, subject to the following requirements:
 - a. No more than one (1) sign per home, or lot for sale or home for rent. For multiple lots for sale by a homebuilder, no more than one (1) sign at the entrance to a subdivision.
 - b. The sign shall not exceed four (4) square feet in area.
 - c. The sign shall be removed within fourteen (14) days of the lot sale or home rental. For multiple lots for sale by a homebuilder, the sign shall be removed within fourteen (14) days after the last home or lot is sold.
5. One (1) additional real estate sign, or a sign area bonus of up to 25%, may be permitted on any lot at the discretion of the Zoning Administrator.

I. Snipe Signs and Special Event Signs.

1. The following applies to all snipe signs and all special event signs except where otherwise limited:

- a. Snipe signs are allowed between the hours of 12:00 p.m. (noon) on Friday through 12:00 p.m. (noon) on the following Monday.
- b. Special event signs, including but not limited to garage sale and grand opening signs, may be displayed beginning forty-eight (48) hours before an event and must be removed within twenty-four (24) hours of the conclusion of an event.
- c. One (1) snipe sign shall be allowed per 250 lineal feet of street frontage per applicant, business or group.
- d. Signs shall not exceed four (4) square feet in area and three (3) feet in height (see Figure 17-386-6).
- e. Signs shall be located in a manner that maintains the corner visibility requirements in accord with Section 17.334 and shall be a minimum of two (2) feet from any public or private street, alley, sidewalk or other pedestrian pathway as measured from the curb, pavement or path surface, whichever is closest.
- f. Any signs that are placed in front, behind or adjacent to another sign shall be placed no closer than four (4) feet from any other sign so that all signage is visible and not obstructed.
- g. Signs shall be fastened to a post(s) that is securely imbedded into the ground or to a similar device approved by the City. No a-frame signs or signs attached to trees, benches, public facilities, poles, signposts or other similar public infrastructure and improvements are permitted.
- h. Signs shall not be placed within City-owned property or right-of-way unless a revocable permit has been approved. Signs may not be placed within State roadway right-of-way without the express approval of the Colorado Department of Transportation (CDOT). Signs are not allowed upon any median, park property, or public building property (i.e. City Hall).
- i. Signs shall not be placed in the right-of-way adjacent to a front or side yard of any residential property.
- j. Snipe signs shall not be illuminated.
- k. Enforcement and Fees. The Code Enforcement Officer or designated representative shall be authorized to remove and dispose of any unauthorized sign or any sign that is in violation of this section without notification to the sign owner. The City may impose fees for the retrieval of any signs that are placed in the public right-of-way or on public property without an approved revocable permit, or signs that do not otherwise meet the regulations contained herein. The city council shall establish the fee.

Figure 17.386-6: Snipe and Special Event Sign Detail



Section 17.387 Sign Standards by Zoning District

A. Standards for Residential Zoning Districts. Signs in the LLR, RA, R1, MF, MHP, MHS, POS, and RMU zoning districts and residential land use designations within a PUD zoning district shall be subject to the following standards:

| Sign Type | Maximum Number | Maximum Area | Maximum/Minimum Height |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Awning or Canopy Sign | Unlimited | 0.5 square feet of signage for each linear foot of awning or canopy | No higher than roof or parapet line; 9 feet minimum pedestrian clearance; 14 feet minimum vehicular clearance |
| Directional Sign | Per approved sign plan | 6 square feet | No higher than 4 feet |
| Freestanding pole sign | 1 per public, quasi-public or institutional use | 35 square feet | No higher than 8 feet |
| Monument sign | 1 per public, quasi-public or institutional use; 1 per permitted use in the RMU district ; 2 per main entrance to a subdivision, multi-family housing complex or mobile home park | 35 square feet | No higher than 6 feet |
| Wall Sign | 1 per principal multifamily building, per street frontage | 20 square feet | No higher than roof or parapet line |
| | 1 per public, quasi-public or institutional use; 1 per permitted non-residential use in the RMU district | 20 square feet | No higher than roof or parapet line |
| Home Occupation Sign | 1 per residence | 4 square feet | Yard Mounted: 3 feet Wall Mounted: No higher than roof or parapet line Fence Mounted: No higher than the top of the fence. |

B. Standards for Nonresidential Zoning Districts. Signs in the CMU, MU, NC, VC, RC, BP, SO, and PI zoning districts, and non-residential land use designations within a PUD zoning district shall be subject to the following standards:

| Sign Type | Maximum Number | Maximum Area | Maximum/Minimum Height |
|------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Awning or Canopy Sign | Unlimited | 0.5 square feet of signage for each linear foot of awning or canopy | No higher than roof or parapet line; 9 feet minimum height pedestrian clearance; 14 feet minimum height vehicular clearance |
| Directional Sign | Per approved sign plan | 6 square feet | No higher than 4 feet, except when used on a vehicular clearance structure: minimum of 14 feet |
| Freestanding Pole Sign | One per legal lot of record < 3 acres in size | 150 square feet. An electronic message center may be integrated up to 50% of allowed sign area. | No higher than 30 feet |
| | One per street frontage >500 lineal feet on a legal lot of record > 3 acres in size | 150 square feet. An electronic message center may be integrated up to 50% of allowed sign area. | No higher than 30 feet |
| | Pole Sign within ¼ mile radius of interstate highway interchange | 480 square feet | No higher than 60 feet |
| Monument Sign | One per business or industrial establishment | 50 square feet. An electronic message center may be integrated up to 50% of allowed sign area. | No higher than 6 feet for lots < 150 lineal feet of frontage; 8 feet for lots > 150 lineal feet of frontage |
| Projecting Sign | One per building entrance | 15 square feet | No higher than roof or parapet line; 9 feet minimum height |
| Roof Sign | 1 per principal building | 150 square feet | No higher than 4 feet above the roofline, parapet or fascia wall on a flat roof; no higher than roofline on a peaked or mansard roof |
| Wall Sign | Unlimited. Within allowed maximum area | 1.5 square feet of area per lineal foot of exterior wall frontage, up to a maximum of 300 square feet for entire building | No higher than 25 feet and not higher than the eave line of the principal building |
| Window Sign | Unlimited. Within allowed maximum area | 50% of the window area | Not Applicable |

Section 17.388 Sign Design, Installation and Maintenance

A. Sign Design

1. The design of the sign including copy, lettering size and style, and colors shall logically relate to the average speed of the motorists who will see it. Signs shall legibly convey their messages without being 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 a) owned by more than one property owner, b) is a multi-tenant sign that advertises more than one business, or c) or is a subdivision entry sign, 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 that has not been used in a bona fide manner as a sign for a consecutive period of one hundred and eighty (180) days shall be deemed as abandoned.
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. Whenever a business, industry, service or other use is discontinued, any sign or sign copy pertaining to the use shall be removed by the person or entity owning or having possession of the property within one hundred and eighty (180) days after the discontinuance of such use, except a sign advertising the lease or sale of the building.
7. All electronic message center 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 17.389 Sign Definitions

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

1. **Abandoned Sign.** A sign for a business or use that does not exist at that address, building or property.
2. **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.
3. **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.
4. **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.
5. **Billboard.** A large sign which directs attention to a business, activity, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.
6. **Building Identification Sign.** A sign which establishes the identity of the occupant by listing their name or professional title, which establishes the identity of a building or building complex by name or symbol only, or which indicates street address and name. The term identification sign shall not include signs identifying commercial or industrial uses or a commodity or service offered on the premises.
7. **Commercial Sign.** A sign advertising, identifying, directing attention to or otherwise relating to commerce and to property, goods or services for sale, lease, exchange or any other transaction where value is given or received by any party to the transaction.
8. **Community Event Sign.** A temporary non-commercial sign, decorations, and/or display associated with school activities, city-sponsored events, non-commercial and/or non-profit organizations, celebrations, or commemorations that have significance to the entire community.
9. **Canopy Sign.** A wall sign that is permanently affixed to a roofed shelter supported by a building, or combination of a building and columns.
10. **Construction Sign.** A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.
11. **Corporate Flag.** Any flag other than a nation, state or city flag which has copy or a logo.
12. **Customer Information Sign.** A sign which identifies, as a courtesy to customers, items such as credit cards accepted, menus, prices, hours of operation, lotto tickets sold here, redemption stamps offered, open or closed,

- or similar items that may be attached to or painted on a structure, building or window.
13. ***Decorative Flag.*** A flag or pennant with no copy or logo.
 14. ***Directional Sign.*** A non-commercial sign directing or guiding vehicular traffic on private property (e.g. enter, exit, drive-through-lane, parking, or similar signs). Logos and business names are permitted as needed to complete the directional message.
 15. ***Electronic Message Center.*** A sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.
 16. ***External Use Sign.*** A sign provided outside of a principal commercial use that provides information to customers in motor vehicles about the products or services available on the premises, e.g., signs for drive-through menus, ATM machines, car wash vacuum, gas station air compressor and similar accessory commercial uses or structures.
 17. ***Freestanding Pole Sign.*** Any non-moveable sign, not affixed to a building, with poles or supports.
 18. ***Ideological Sign.*** A temporary or permanent sign communicating a message or ideas for noncommercial purposes, including signs relating to political campaigns or issues.
 19. ***Memorial Sign.*** A sign or plaque identifying a site, structure or building, which may include but is not limited to names or dates of construction, use, or historical designation.
 20. ***Message Hold Time.*** The time interval a static message must remain on the display before transitioning to another message.
 21. ***Monument Sign.*** A freestanding sign with the entire bottom of the sign affixed to the ground that identifies a business, institution, subdivision or development.
 22. ***Mural.*** A picture or graphic illustration applied directly to a wall of a building that does not advertise or promote a particular business, service or product.
 23. ***Non-commercial Sign.*** A sign which is not an on-premise or off-premise sign and that does not identify, advertise or attract attention to a business, product or service, or propose an economic transaction. Non-commercial signs include but are not limited to: signs expressing political views, religious views, signs of non-profit organizations related to their tax-exempt purposes or community event signs.
 24. ***Nonconforming Sign.*** Any sign that does not conform to the requirements of this chapter.
 25. ***Off-Premise Sign.*** A sign or billboard which is used or intended for use to advertise, identify, direct or attract the attention of the public to a business, institution, product, organization, or location offered or existing elsewhere than upon the same lot, tract or parcel of land where such sign or billboard is displayed.
 26. ***On-Premise Sign.*** A sign, which advertises or directs attention to a business, product, service, or activity that is available on the premises where the sign is located.

27. **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.
28. **Portable Sign.** A moveable sign that is not permanently affixed to a building, structure, or the ground.
29. **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.
30. **Private Notification Sign.** Signs that regulate actions on private property, e.g., no trespassing and similar signs.
31. **Real Estate Sign.** A temporary sign intended to advertise the financing, development, sale, transfer, lease, exchange, availability or rent of land, buildings, or apartments.
32. **Roof Sign.** Roof sign shall mean a sign on or above a roof of a building or structure.
33. **Sign.** Any name, figure, character, outline, display, announcement, or device, or structure supporting the same, or any other device of similar nature designed to attract attention outdoors, and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. A sign shall not include any architectural or landscape features that may also attract attention.
34. **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.
35. **Sign Height.** The distance between the top most portion of the sign structure and the average ground elevation at the base of the sign.
36. **Sign Structure.** Any supports, uprights, braces, or framework of a sign.
37. **Snipe Sign.** A temporary sign which is tacked, nailed, stapled, posted, glued or otherwise attached to poles, stakes, fences or other object which bears a message not directly applicable to the premises upon which it has been placed.
38. **Special Event Sign.** A temporary sign directing attention to an activity of limited duration. Examples include garage sales, grand openings, special sales, or similar activities.
39. **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.
40. **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.
41. **Transition Duration:** The time interval it takes the display to change from one complete static message to another complete static message.
42. **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.
43. **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.
 44. **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.
 45. **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, or customer information signs.
 46. **Work of Art.** Fine art which in no way identifies a product, business, or enterprise and which is not displayed in conjunction with a commercial enterprise that would realize direct commercial gain from such a display.

Chapter 17.39 Supplemental Standards

Section 17.391 Utilities. 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 17.392 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, home occupation or other use except when located in an approved MHP zone district or approved RV Park subject to all rules and regulations governing the district and RV Park. No business shall be conducted within such equipment or vehicle, in a fixed location without approval of a temporary use permit as set forth in Section 17.393.

Section 17.393 Temporary Uses

A. Designated. A temporary use permit may be issued for the uses in Table 17.393-1 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 17.393-1.

B. 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 off-street parking spaces required by Section 17.342.

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. The temporary use is in conformance with all standards and criteria of this section.

C. 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.

D. 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.

E. 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 17.393-1 based on the following criteria: a) special and extenuating circumstances applicable to the use; b) strict enforcement would cause an unnecessary hardship that is not based on lack of knowledge of this code; c) time extension requested is the minimum time period needed to address the hardship; d) granting of the extension will not injure the appropriate use of the property on which is it located or adjacent properties; and e) time extension requested shall not be for more than double the amount originally allowed.

F. 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.

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

TABLE 17.393-1

| Use | Consecutive Time Period Permitted | Districts* | Renewals |
|-----------------------------------------------|------------------------------------------|------------------------------|-----------------|
| Automated Venders | Unlimited | All | N/A |
| Auto sales | Two (2) weeks | Nonresidential | 2 |
| Car washes | Three (3) days | All | 1 |
| 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 | Unlimited | All | N/A |

| | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|-----------|
| designed for that occupancy classification | | | |
| Construction equipment yards (Only if located on same site as specified project or subdivision) | Until completion of project or subdivision, unless specified project is inactive for more than 90 days. | All | N/A |
| Construction offices, which also can be used as security quarters incidental to construction on the premises | Until completion of project or subdivision, unless specified project is inactive for more than 90 days. | All | N/A |
| Construction storage trailer: location to be approved by the Zoning administrator; cannot be used as an advertising device | Until completion of specified project or subdivision, unless specified project is inactive for more than 90 days. | All | N/A |
| 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, animal grooming, and similar activities | One (1) year | All (Cannot be located in a fixed location in a residential area) | Unlimited |
| 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, classrooms, and childcare facilities in module units designed for that occupancy classification | Not to exceed two (2) years after a site development plan is approved for module classification | 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 |
| Recycling Bins | One (1) year | All | 1 |
| Religious assembly | One (1) week | All | 2 |
| Retail Sales of Fireworks | May 31 st to July 6 th | All commercial and industrial zone districts, including PUD zone | None |

| | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------------|---|
| | | districts. Excluding all mixed use zone districts. | |
| Retail sales of specialty items | Sixty (60) days | Nonresidential and Mixed Use | 2 |
| 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.

* *Subject to submittal of a site development plan for a permanent structure.

Section 17.394 Architectural Review 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. Detached single-family residential dwelling units are exempt from this requirement. 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 may impose upon the approval of site development plans and plot plans. Additional requirements and conditions may be stipulated on the site development plan and plot plan by the Zoning administrator:

1. All metal structures that are proposed for construction with exterior metal siding shall add enhancements such as wood, brick, rock, stucco or similar materials. The sides that require enhancements shall be those that are the most visible from pedestrians, roadways or adjacent residential properties. Shiny raw metal surfaces on building sides and roofs are prohibited, except as accents.
2. All accessory structures shall be of the same color scheme and material as that of the main structure.
3. The construction material and color scheme of all structures shall be harmonious with the adjacent properties.
4. The use of bright, intense, extreme or neon colors shall not be permitted, except as accents.
5. Long blank walls are not allowed.
6. Buildings shall not be designed or oriented to expose loading docks, service areas or non-residential overhead doors to roadways.
7. 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.

8. Fabric covered structures are not permitted.

Section 17.395 Relocations of On-site Built Structures 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.

ARTICLE IV SPECIAL USE REQUIREMENTS AND DEVELOPMENT OPPORTUNITIES

Chapter 17.40 Industrial and Commercial Performance Standards

Section 17.400 Application

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. The purpose of these standards is to permit potential industrial nuisances to be measured, factually and objectively; to ensure that all industrial or commercial uses will provide methods to protect the community from hazard 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 in the past.

1. Site Development Plan. All industrial uses shall be shown on a site development plan submitted to and approved by the Zoning administrator.
2. Glare and Heat. Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line.
3. Vibration. Industrial or commercial operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Temporary construction sites are excluded from this restriction.
4. 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.
5. Smoke. All industrial and commercial uses which produce smoke or any air contaminate shall be subject to the jurisdiction and regulations of the Colorado Air Quality Control Commission and the Colorado Air Quality Control Division. The city reserves the right, prior to approving any

industrial or commercial application under this title, to require from the applicant evidence of compliance with applicable regulations of state government.

6. Odors. No industrial or commercial use shall cause to allow the emission of malodorous air contaminants from any single source such as to result in detectible odors, which are perceptible without instruments outside the property boundaries.
7. Noise. All industrial and commercial uses shall be conducted such that noise generated from such uses is controlled at its source or so attenuated by the structure from which it radiates that it does not become objectionable outside its property lines.
8. Fugitive Dust. No industrial or commercial operation shall be allowed to produce fugitive dust in amounts, which are noticeable or appreciable outside of the property boundaries of the use.
9. 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.
10. 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 insure 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.
11. 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.
12. 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.
13. 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, 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 applicable federal, state or city regulations. This subsection shall apply to the container of the hazardous substance as well as to the substance itself.

Chapter 17.41 Residential Cluster Development

Section 17.410 Purpose and Intent

A. The purpose and intent of this chapter is to permit an administratively uncomplicated method for cluster development, to promote imaginative, well-designed developments which preserve open space, respect physical qualities of the land and reduce

overall development costs. More specifically, this option is intended to permit cluster development, which will:

1. Result in improved living and working environments.
2. Allow for flexibility in design and maximum effective density, in exchange for increased preservation of open space to serve recreational, scenic and public service purposes, within the densities established by the zoning district.
3. Promote more economically efficient development layout by reducing street lengths, utility installations, and energy savings in street and utility line maintenance.
4. Encourage ingenuity in design to promote a variety of housing types.
5. Establish criteria for identifying those parcels of land and/or sites, which are eligible for cluster design.
6. Insure that approval of residential cluster development is granted only if the subject parcel is large enough to make innovative and creative site planning possible.
7. Insure applicants for residential cluster development have professional capability to produce a creative plan.
8. Insure the public interest in achieving goals stated in the Fountain Comprehensive Development Plan will be better served by the residential cluster development than the application of conventional zoning regulations.
9. Insure that the advantages to land owners afforded by the residential cluster development will be balanced by public benefits.
10. Insure that the dwelling units are concentrated on the most buildable portion of a parcel, so that natural drainage systems, open space, and other significant natural features that help control runoff and soil erosion are preserved.

Section 17.411 Use and Density Requirements. Every residential cluster development shall conform to the use and density requirements set forth in the underlying zoning district. In no case, shall the density specified for the underlying district increase, nor shall the other applicable regulations or use limitations be modified or changed.

Section 17.412 Density Transfer. In each zoning district allowing residential cluster development, the lot size may be reduced from the general lot size of the underlying zoning district, to a specific minimum lot size for cluster development. All such lot reductions shall be justified and compensated for by an equivalent amount of land in cluster open space to be reserved as permanent open space and maintained for its scenic value.

Section 17.413 Dimensional Requirements

A. Modification and variation of yard and lot dimensional requirements may be permitted.

1. **Minimum Lot Area.** Lots may be reduced in areas below the minimum lot size required by the underlying zoning district, provided that the average lot size of the total lots created within the development is not below the minimum lot size required by the underlying zoning district. Open space shall not be included in the total gross average used for determining the average lot size.

2. **Yard Requirements.** The minimum yard requirements established by the underlying zoning district may be reduced, upon finding by the planning commission and city council that the applicant has satisfactorily justified all requested yard modifications. Front yards shall have a minimum depth of eighteen feet (18'). Front yards shall be staggered to provide a maximum variety in the size of such yards.
3. **Lot Frontage.** The minimum lot frontage established by the underlying zoning district may be reduced as determined appropriate.
4. **Lot Coverage.** The maximum lot coverage ratio for any lot of record shall not exceed eighty percent (80%).

Section 17.414 Eligibility Criteria

A. A residential cluster development shall meet the following eligibility criteria:

1. **Land Ownership.** The applicant shall own or control the land subject to the residential cluster development application.
2. **Development Team.** An appropriate development team of design professionals (i.e. architect, landscape architect/planner, civil engineer, soils engineer, drainage engineer, etc.,) has been retained by the applicant, with the expertise and experience to carry out the intent of this development and applicable standards.
3. **Phased Development.** All proposed phased developments must be accompanied by a schedule establishing approximate dates when each phase will be completed. Each phase of the development shall include its pro rata share of total planned common open space, facilities and services, as applicable. Amenities serving the entire development may be required to be constructed in the earliest phase of the development.
4. **Provisions, Operation and Maintenance of Common Areas.** Where common areas or facilities are proposed, an operation and maintenance program shall be prepared, administered and enforced through approved covenants, conditions and restrictions.
5. **Development Agreements.** Completion time and complexity of proposed cluster developments may make desirable a development agreement between the project applicant and the city in order to provide assurance to the city that an approved project will proceed in accordance with the policies, rules and regulations existing at the time of the agreement and subject to conditions of approval.
6. **Subdivision Plat Required.** A request for residential cluster development must be accompanied by a subdivision plat, which meets the requirements set forth by the city. If land was subdivided prior to , it is exempt from meets and bounds requirements.
7. **Denial of Application.** If an application for a residential cluster development is denied, a substantially similar application, as determined by the planning commission and city council, cannot be submitted for a period of one (1) year from the date of denial.

Section 17.415 Location. Cluster development may occur in the LLR, RA, R1, MF and RMU residential zoning districts.

Section 17.416 Open Space Lands. The amount of open space required for a cluster development shall be equal to the amount that is equivalent to the total reduction in lot size for all lots in development. Land reserved for open space shall be preserved and maintained for scenic value, recreation or conservation, schools, community buildings or related uses. Improvements shall be limited to such purposes. Cluster open space shall not include areas devoted to public or private vehicular streets or any land, which had been or is to be conveyed to a public agency via a purchase agreement (i.e. schools, parks or other public facilities). Cluster open space shall be made available to all residents unless the city finds that the area, configuration, and location of such open spaces would make public use undesirable or unnecessary. If dedicated to the city, the land shall be conveyed in fee simple absolute title by warranty deed. If the cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the planning commission and city council, sufficient to assure its maintenance and preservation for the purpose intended. Covenants or other legal arrangements shall specify the owner and maintenance responsibility.

Section 17.417 Utilities. Cluster developments shall be served by municipal water and public sanitation.

Section 17.418 Streets. Streets may be designed as public or private streets in accordance with city standards.

Section 17.419 Design Requirements.

- A. A variety of architectural styles shall be encouraged.
- B. Where the city determines necessary, sidewalks are encouraged to be detached.
- C. Each dwelling unit shall be provided with an enclosed double garage.

Section 17.420 Findings.

- A. Before recommending approval or approving any residential cluster development, the planning commission and city council shall make the following findings:
 1. That the residential cluster development is consistent with the purpose, intent and criteria set forth in this chapter.
 2. That the residential cluster development is in harmony with the Fountain Comprehensive Development Plan, subdivision regulations, and this chapter.
 3. That the residential cluster development is compatible with the surrounding areas and that the project will not result in undue adverse effects upon adjacent property, the character of the neighborhood, traffic conditions, parking or utility facilities.
 4. That an exception from typical residential design is warranted by virtue of the design and amenities incorporated into the plan, including planned variations to district regulations, which serve a public purpose, and provide amenities and benefits to an equivalent or higher degree than would ordinarily be achieved.
 5. That the amenity level of the development and the amount of open space provided is greater than what would have been required under conventional zoning regulations.

6. That the usability of cluster open space intended for recreation or public use is easily accessible to pedestrians, and is suitable for the intended purposes.
7. That the residential cluster development creates a desirable and stable environment and makes possible an innovative and efficient use of the property.
8. That the proposed development will not result in the destruction, loss, or damage of any natural scenic, or historic feature of significant importance to the community.
9. That individual lots, buildings, dwelling units and parking areas are situated to avoid where possible, adverse effects of shadows, noise, and traffic on the residents of the site.
10. That the existing and proposed streets are suitable and adequate to carry anticipated traffic within the residential cluster development and near the residential cluster development.
11. That the existing and proposed utility services are adequate for the residential cluster development.

Chapter 17.43 Adult-oriented Uses – Regulated

Section 17.432 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 and/or school by not less than one thousand feet (1,000'), and other adult-oriented uses by not less than three hundred feet (300').

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

Section 17.434 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. Nothing in this chapter shall be construed to require such issuance or approval of an adult oriented business failing to comply with the standards of the city, which may be otherwise generally applicable. Redress for any denial not made pursuant to this chapter shall be governed by the procedures otherwise available in the context of such denial. Within ten (10) business days of the city after the submission of an appropriate written application for the approval of the location of an adult-oriented business, the Zoning administrator shall in writing approve or deny the same. In the event of denial, the Zoning administrator shall in writing set forth the basis under this chapter of such denial.

B. Within ten (10) calendar days from the date of such written denial, the applicant may file with the City Clerk a notice of appeal (pursuant to Section 17.593) stating with particularity the basis of the exception taken with such denial. A copy of such document shall be concurrently submitted to the office of the City Attorney.

Section 17.436 Variance Procedures for Adult-oriented Uses

A. The City Council may grant a variance pursuant to a request for variance duly filed with the City Clerk upon a finding that, at the time of the filing of the request and continuing until the time of the hearing, no occupancy of any location is available to 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 in compliance with the location requirements shall not constitute the basis of establishing unavailability under this chapter.

B. Upon receipt of the request for variance duly filed by the applicant for a variance, the city council shall schedule a public hearing in conformance with the procedures set forth in Chapter 17.61 of this title.

C. In the event the city council should, in consideration of the evidence presented at the public hearing find that no location, as defined in this chapter, is available in a Planned Industrial Zoning District in compliance with the location requirements set forth in this section, the city council shall grant a variance to the applicant to locate the adult-oriented use within three hundred feet (300') of an existing adult-oriented use. In the event that the applicant establishes that no location is available anywhere in a Planned Industrial Zoning District as required by this chapter, the city council shall grant a special variance to locate in an otherwise appropriately commercially zoned location specifically identified in the request for variance. Such property shall be situated no closer than one thousand feet (1000') from the property line of any existing residential use, church, school or park.

D. Relief sought from the decision of the city council shall be subject to the provisions of Rule 106 (a)(4) of the Colorado Rules of Civil Procedure. Failure to request and exhaust the administrative procedure provided in this chapter shall preclude judicial review, and shall be deemed to constitute an abandonment of any right or claim to a variance under this section.

E. Notice. Any notice to be given to the city by the applicant, or to the applicant by the city under this chapter, shall be effective upon the mailing thereof to the attention of the Zoning administrator, and to the applicant at the address set forth in any notice or request presented under this title.

Chapter 17.44 Commercial Mobile Radio Service

Section 17.440 Purpose and Intent. 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:

A. Facilitate the provision of wireless telecommunication services to the residents and businesses of the city.

B. Minimize adverse impacts of facilities through careful design, siting and screening standards.

C. 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.

D. Provide specific regulations related to the review processes for CMRS facilities.

E. 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 17.442 Scope; applicability

A. This Chapter applies to all CMRS facilities as defined in Section 17.558. 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 nonconforming with respect to the requirements of this Chapter, provided, however, that such legally-nonconforming CMRS facilities shall be subject to the requirements of Chapter 17.60 of the Fountain Municipal Code and this Chapter. To the extent such legally nonconforming CMRS facilities are proposed to be expanded or modified, such expansion or modification shall follow the procedures and limitations set forth in Chapter 17.60, unless the expansion or modification is an “Eligible Telecommunications Facilities Request,” in which case the time limit of Section 17.554.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 17.44 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 17.444 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, Code Section 17-528 applies.
2. Ground-mounted accessory equipment or buildings containing accessory equipment shall not exceed 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 this Code, 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.
2. 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.
3. 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.
4. Applications for new freestanding CMRS facilities shall provide evidence that the (new) facility can accommodate collocation of additional carriers.

Section 17.446 Design standards for freestanding CMRS facilities

A. *Stealth design*, as described in Section 17.558, is required for all freestanding CMRS facilities. Such facilities shall be subject to architectural review under Section 17.394.

B. *Height*. All freestanding CMRS facilities shall be no taller than the height limit in the relevant zone district, or 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 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 17.558, 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 Section 17.444, 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 Section 17.444. 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 feet in height, and shall be equipped with an appropriate anti-climbing device or devices.

Section 17.448 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 17.500 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 10 feet (including 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 17.552 Permitted locations for CMRS facilities. This Section describes the locations within which various kinds of CMRS facilities, as defined herein and in Section 17.558, 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 Section 17.553.

Section 17.553 Small cell facilities and networks

A. *Applicable requirements.* Small cell facilities and small cell networks, as defined at Section 17.558, 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 1000 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, 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 17.554 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 17.558, 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. 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.
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 17.56, 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.
 - g. 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.

D. *Review deadlines.* In compliance with federal law and regulations, the City shall review and act upon all applications within the following time periods:

1. Within 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. Within 60 days the City will act on applications that are not a "substantial change" (an Eligible Telecommunications Facilities Request).
3. Within 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.
4. Within 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.

E. *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 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 its 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.

F. *Review Criteria.* The reviewing official or body as appropriate, shall apply the design and location standards contained in Sections 17.444 through 17.553, as appropriate in its review and decision on the application.

G. *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 17.556 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 17.558 Definitions

A. *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.

B. *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.

C. *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.

D. *CDOT* Colorado Department of Transportation.

E. *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.

F. *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.

G. *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.

H. *FCC* Federal Communications Commission.

I. *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.

J. *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.

K. *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.

L. *Roof-mounted commercial mobile radio service (CMRS) facility.* A CMRS facility in which antenna are mounted on an existing building roof.

M. *Small cell facility* means :

1. a wireless service facility that meets both of the following qualifications:
 - a. Each antenna is located inside an enclosure of no more than three 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 cubic feet; and

- b. Primary equipment enclosures are not larger than seventeen 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.

N. *Small cell network.* A collection of interrelated small cell facilities designed to deliver wireless service.

O. *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.

P. *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 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten 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 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 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.

Q. *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.

R. *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 tower or other structure, even if said highest point is an antenna.

Chapter 17.45 Animal Raising and Keeping

Section 17.450 General Provisions

A. *Location Requirements*. The housing, keeping, or sheltering of any animal or livestock, excluding household pets and chicken hens, 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 17.452 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 .5 shall be rounded down to the nearest whole number and fractional values .5 and greater shall be rounded up to the next whole number.

Table 17.45 – 1 Animal Units

| Type of Livestock | Animal Unit |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Cattle | |
| <i>1 cow or bull over 2 years old</i> | <i>1.0</i> |
| <i>1 weaned calf, yearling, young cow</i> | <i>0.7</i> |
| Horses/Mules | |
| <i>1 horse, mature</i> | <i>1.3</i> |
| <i>1 yearling</i> | <i>1.0</i> |
| <i>1 weaning colt or filly</i> | <i>0.75</i> |
| <i>2 ponies</i> | <i>1.0</i> |
| <i>1 mule</i> | <i>1.0</i> |
| <i>1 miniature</i> | <i>0.25</i> |
| Llamas | <i>0.30</i> |
| Sheep | |
| <i>5 mature ewes or rams</i> | <i>1.0</i> |
| <i>5 yearling</i> | <i>0.8</i> |
| <i>5 weaned lambs to yearlings</i> | <i>0.6</i> |
| Goats – 7 goats | <i>1.0</i> |
| Swine | |
| <i>1 Sow or boar</i> | <i>0.5</i> |
| <i>1 Pig to 200 lbs.</i> | <i>0.2</i> |
| Rabbits- 56 rabbits <i>subject to issuances of a conditional use</i> | <i>1.0</i> |
| Barnyard Fowl | |
| <i>55 chicken hen*</i> <i>1-10 Chicken hens requires a permit</i> * Cock Birds shall not exceed two per animal unit and are included in the total number of chickens allowed | <i>1.0</i> |
| <i>55 Ducks</i> | <i>1.0</i> |
| <i>32 Geese or 32 Turkeys</i> | <i>1.0</i> |
| <i>330 (6 Quail = 1 chicken)</i> | <i>1.0</i> |

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.
 - a. 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.
 - b. 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.

- c. 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 feet (50') from any property line.
 - a. 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 foot (50') setback requirement.
 - b. 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 foot (50') setback. If the abutting undeveloped property is developed, the fifty foot (50') setback shall be required for any existing or new fenced areas wherein animals are kept.
 - c. Chicken enclosures shall be subject to the setback standards listed below in 7. d. ii. of this Subsection.
3. 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 feet (25') from the property line and shall not exceed five feet (5') in height.
4. 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.
5. Violations of this chapter shall be subject to enforcement procedures as set forth in Chapter 17.16 of this Code and nuisance abatement as set forth in Chapter 8.12 of this Code.
6. Beehives:
 - a. Colonies of bees shall be maintained in moveable frame hives, constructed to meet the specifications for beehives set by the American Beekeepers Federation.
 - b. 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 Section 17.38.
 - c. Hives shall be properly shaded from adjacent night lighting on adjoining properties.

- d. Hives shall not be located within twenty-five feet (25') of any property line, public street, sidewalk, or alley.
 - e. Adequate space must be provided in each hive to prevent overcrowding and swarming.
 - f. Colonies must be requeened following any swarming or aggressive behavior.
 - g. 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 this Code and nuisance abatement as set forth in Chapter 8.12 of this Code.
 - h. The keeping of bees shall be restricted to residential zoned lots of one (1) acre or more.
 - i. Eight (8) hives shall be permitted on residential lots from one (1) acre to less than two and one half (2-1/2) acres.
 - j. Twenty-five (25) hives shall be permitted on residential lots from two and one half (2 1/2) to five (5) acres.
 - k. The number of beehives is not limited on residential lots of five (5) or more acres.
7. 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.
- a. 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.
 - i. 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 multi-family 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.
 - ii. Chicken hens shall be allowed in common areas such as community gardens, public and private parks, multi-family 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 17.56.
 - b. Number of Chickens:
 - (1) 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 17.45-1 Animal Units and subject to the approval of a conditional use in Chapter 17.56.
- (2) 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 17.45-1 Animal Units.
 - (3) 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 2 chicken hens.
- c. 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 and free ranging activities. Where a common area is not located in a rear backyard, screening and fencing shall be required.
 - d. Chicken Coops Required: All property owners approved for the keeping of chicken hens shall provide chicken coops on their lots. Chicken coops shall meet the following minimum requirements:
 - i. 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.
 - ii. Set back a minimum of five (5) feet from any property line or any other structure.
 - iii. Be predator-proof with a solid top.
 - iv. Minimum of four (4) square feet per chicken.
 - v. Maximum of 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.
 - vi. 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.
 - e. 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.
 - f. No outside slaughtering or display of slaughtered chickens shall be allowed.
 - g. Chicken feed must be properly stored so as not to attract mice, rats and other vermin.
 - h. A maximum of ten (10) chicken hens shall be allowed for an agricultural business, excluding feed lots, 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.

- i. Containment shall be required for more than 100 chicken hens in the Large Lot Agricultural/Residential (LLR) District and Residential Agricultural (RA) District.

ARTICLE V: ADMINISTRATION AND PROCEDURES

Chapter 17.50 Administration

Section 17.500 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. Nonconforming Uses, Structures and Lots, and Parking Specifications
12. Notice of Public Hearings.

Section 17.501 Zoning administrator

A. There is hereby established the office of "zoning administrator". 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 17.502 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 17.503 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 17.504 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 17.59.

C. The board of adjustment shall not have the power to change this title or to change the official zoning map.

Chapter 17.51 Certificates of Occupancy

Section 17.510 When Required. 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.

Chapter 17.52 Plot Plans for Single and Two-Family Homes

Section 17.520 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 17.54). 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.
4. Any other information required by the uniform 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.

Section 17.521 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 or conveyances 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. The city council, after planning commission review and recommendation, may defer any public improvements or conveyances until the city council may require the completion of said public improvements or conveyances. In making the determination to defer any public improvements or conveyances, the city council and planning commission shall consider the following criteria:

1. The deferral will not be detrimental to the public good or surrounding properties.
2. Deferral of the public improvements and conveyances would be more practical due to existing conditions in the neighborhood.
3. In granting any deferral, the city council may attach such reasonable conditions and safeguards, as it may deem necessary to implement the intent and purpose of this title.

Section 17.522 Issuance of Permits. All requirements of this title shall be met prior to the issuance of any permit issued in conflict with the provisions of this title shall be null and void and may not be construed as waiving any provision of this title.

Chapter 17.53 Planned Unit Developments

Section 17.530 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 Section 17.248 A.

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 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 planned unit development until and unless the property is platted, as applicable, in accordance with the Title 16 (Subdivision).

Section 17.531 Application Process

A. General. The planned unit development process requires the preparation of an overall development plan 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 overall development plan 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 overall development plan constitutes the overall zoning plan for the property. Overall development plans 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. The applicant is required to have a meeting with the Zoning administrator and other city staff. The meeting shall occur prior to submitting a zoning or rezoning application for a planned unit development. The purpose of this meeting is:

1. To review the general feasibility of the proposal.
2. To inform the applicant about procedures, process and submittal requirements.
3. To review applicable development standards and provide the applicant with any other information necessary to ensure the formal application furthers the intentions stated within the Fountain Comprehensive Development Plan and meets the objectives and requirements of the city.
4. To allow the applicant to ask questions to determine all known issues and concerns about the proposal.
5. City staff's opinions presented during the pre-application meeting are intended to be informational only and do not represent a commitment on behalf of the city regarding the acceptability of the proposal.

Section 17.532 Submission Requirements for the Overall Development Plan. The following constitutes the submission requirements for any 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. The plan document shall have an outer dimension of 24" x 36", and shall also be duplicated in 11"x17" 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 feet (5') 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 gross 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 in Section 17.246.
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 feet (150'), exclusive of public right-of-way, at the same scale as the overall development plan, 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.
 - i. Traffic circulation systems.
 - ii. Major public facilities.
 - h. Location of existing municipal boundaries, service and school district boundaries.

C. Written Narrative. The following written information shall be provided by the applicant:

1. A statement of planning objectives.
2. A statement of proposed ownership of public and private open space areas.
3. A proposed development-phasing schedule.
4. Master development drainage plan.
5. General utility report indicating the providers and general system requirements for water, sewer, gas, electric and communication utilities.

6. 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 overall development plan area. This includes by way of example a traffic impact analysis.

D. Copies. The number of copies required for each required item, will be determined by the Zoning administrator.

E. Review Criteria. Overall development plans 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 overall development plan is consistent with the Fountain Comprehensive Development Plan and other adopted plans.
2. The overall development plan 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 overall development plan 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 overall development plan 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 overall development plan 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.

F. Upon approval 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 overall development plan 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 the overall development plan shall be void. The overall development plan is valid for a period not to exceed three (3) years unless the applicant proceeds to a site development plan or preliminary plat on any portion or phase of the subject property.

Section 17.533 Amendments to Approved Overall Development Plan

A. Intent. From initial concept and approval to final construction, unforeseen changes and ordinary refinements occur which may require changes to the approved overall development plan. 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 overall development plan revisions. It is also the intent of this section to establish a procedure to review and approve significant changes to the approved overall development plan.

B. Minor Amendments. Minor amendments to an approved overall development plan may be approved administratively by the Zoning administrator.

1. 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 overall development plan was approved so long as no modification violates any standard or regulation set forth in this title.
2. The applicant shall make a written request to the Zoning administrator justifying the proposed minor amendment and clearly showing on the overall development plan 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 overall development plan shall be processed in the same manner as the original overall development plan. Approval of a major amendment to an approved overall development plan 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.
2. 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:
 - a. A map of the entire overall development plan's area, which clearly defines that portion which is proposed for amendment.

- b. A justification of the proposed amendment, including a discussion of any changes in impact, which would result from the amendment.

Section 17.534 Obsolete Overall Development Plans

A. An overall development plan, referred to as a master plan prior to the effective date of this title, may be considered obsolete if the Zoning administrator, planning commission or city council finds that any of the following conditions exist:

1. Surrounding conditions including, but not limited to, land use, zoning or public facilities, have changed significantly since the master plan was approved or last amended.
2. The original development concept has not been followed.
3. The overall development plan has been inactive and no final site development plans have been approved and filed for the past three (3) years, or no building permits have been issued for the past five (5) years.
4. The overall development plan is in substantial conflict with the Fountain Comprehensive Development Plan.
5. Information upon which the overall development plan was based is outdated.

B. In the event an overall development plan is found to be obsolete, a new overall development plan shall be approved pursuant to the requirements of this section.

C. The Zoning administrator, planning commission or city council may establish those milestones and/or other deadlines on the overall development plan to fairly establish the obsolescence of a specific overall development plan.

Section 17.535 Inactive Applications

A. Zoning files become inactive when the Applicant/Developer is required to submit additional information, request a meeting date and has failed to do so, or no Applicant activity or progress has occurred on the application for a period of more than six (6) months. When a project becomes inactive, the application shall become expired. Submittal of a new application and fees shall be required to pursue the request.

A written application for an extension must show good cause for the extension along with an estimated time for submittal of the additional information or submittal of a request for a hearing date. The Zoning Administrator may grant an extension of time, for no more than three (3) months, upon timely submission providing that a) the regulatory provisions governing the project has not changed and b) the Zoning Administrator determines that the request for extension of time is for good cause, and c) the project is not become void due to in activity. In determining if good cause for an extension exists, the Zoning Administrator shall consider if the applicant has demonstrated good cause for an extension based upon sufficient hardship. Financial hardship shall not be considered. Only one three (3) month extension may be granted.

These provisions shall apply to all zoning applications on file with the City and to any applications filed thereafter.

Zoning files that were submitted prior to the effective date of these regulations and have become inactive shall have three (3) months from the effective date to submit the required additional

information or request a meeting date. Failure to do so will cause the zoning file to become expired. Once a zoning file has been deemed inactive and expired, a new application meeting all submittal requirements in effect at time of submittal and all applicable fees shall be paid.

Chapter 17.54 Site Development Plan (Preliminary and Final)

Section 17.541 Intent and Purpose. 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 17.542 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 17.543 Enforcement. No building permit for any use other than detached single-family and two-family dwelling units shall be issued for the construction of any new building, structure, parking area, or loading area, or any substantial alteration thereto without first obtaining the approval of a site development plan from the Zoning administrator. No certificate of occupancy shall be issued for any structure or building, with the exception of detached single-family and two-family dwelling units, unless all improvements and common amenities allocated to that phase of development are completed in conformance with the approved site development plan. A temporary certificate of occupancy may be issued with the consent of the Zoning administrator.

Section 17.544 Pre-application Meeting

A. The applicant is required to have a meeting with the Zoning administrator and other applicable city staff, prior to submitting a site development plan application for any requests made pursuant to this chapter. The purpose of this meeting is:

1. To review the general feasibility of the proposal.
2. To inform the applicant about all the procedures, process and submittal requirements.
3. To review applicable development standards and provide the applicant with any other information that is necessary to ensure the formal application is in harmony with the overall development plan, official zoning map, Fountain Comprehensive Development Plan, and the objectives and requirements of the city.
4. To allow the applicant to ask questions to determine all known issues and concerns about the proposal.

B. The opinions of city staff presented during the pre-application meeting are intended to be informational only and do not represent a commitment on behalf of the city regarding the acceptability of the proposal.

Section 17.545 Preliminary Site Development Plan Submittal Requirements. The following constitutes the submission requirements for a preliminary site development plan:

- A. Application form and application fee.
- B. Legal description of the site.
- C. A current list of the names and addresses of all owners of record of real property within four hundred feet (400') of the property lines of the site exclusive of public right-of-way.
- D. A preliminary site development plan to be at an appropriate scale, as determined by the Zoning administrator, with an minimum outer dimension of twenty four inches (24") by thirty inches (30"), and duplicated in eleven inches (11") by seventeen inches (17") reproducible size to contain the following information:
 - 1. Name by which the proposed development is to be referred.
 - 2. Date of preparation, the scale and a symbol designating true north.
 - 3. Parcel size stated in gross acres and square feet.
 - 4. Topographic contours at two-foot (2') intervals or less.
 - 5. Total number, type and density per type of dwelling unit.
 - 6. Total floor area for nonresidential uses and ratio of floor area to lot area with a breakdown by type of land use.
 - 7. Location and square footage of each area designated for passive and active recreational use.
 - 8. Location and acreage of common areas and all public land uses, including public parks, recreation areas and similar uses.
 - 9. Proposed coverage of buildings and structures including the following:
 - a. Percentage and square footage of building coverage.
 - b. Percentage and square footage of driveway and parking.
 - c. Percentage and square footage of public street right-of-way.
 - d. Percentage and square footage of open space and landscaped area.
 - 10. Number and location of off-street parking spaces, including automobile, handicapped, and bicycle, with typical dimensions for each type.
 - 11. 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.
 - 12. Location of existing and proposed pedestrian circulation system, including sidewalks.
 - 13. Existing zoning.
 - 14. Proposed treatment of the perimeter of the development, including materials and techniques used, such as screens, fences, walls, and landscaping.
 - 15. A vicinity map of the areas surrounding the site to a distance of at least one-half (1/2) mile showing the following:
 - a. Zoning districts.
 - b. Traffic circulation systems.

- c. Major public facilities.
 - d. Location of existing municipal boundaries, service district boundaries and school district boundaries.
16. Owner's certification of acceptance of conditions and restrictions as set forth on the preliminary development plan.
 17. Proof of ownership, which includes a current or updated title policy or commitment, no more than sixty (60) days old.
 18. Signature block certification of approval of the preliminary site development plan.
 19. 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.

E. Preliminary subdivision plat, or final subdivision plat, if required. The subdivision plat may be combined with the preliminary site development plan.

F. Other documentation as determined by Zoning administrator or planning commission.

G. 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.

H. Street cross-section schematics provided for each category of street, including the proposed right-of-way and pavement width, curb, gutter and sidewalk locations.

I. Preliminary drainage plan, consistent with the approved master development drainage plan, if applicable. Plans must be prepared by a registered engineer.

J. Conceptual plans of all buildings, including representative architectural elevations, sufficient to convey the intent of the proposed development.

K. 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 17.546 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 devise 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 17.547 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 overall development plan, 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.

B. The number of required copies of documents to be submitted by the applicant will be determined by the Zoning administrator.

C. 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.

D. No application shall be considered accepted until all required information is submitted.

E. Final Site Development Plan Exhibit. The final site development plan shall consist of a black ink drawing with an minimum outer dimension of twenty four inches (24") by thirty inches (30"), and duplicated in eleven inches (11") by seventeen inches (17") reproducible size, and shall contain the following:

1. Date, north arrow, scale (one inch (1") = fifty feet (50') 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 outside 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 17.548 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 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 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. 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 overall development plan, 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 17.59 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.

Section 17.549 Inactive Applications

A. Zoning files become inactive when the Applicant/Developer is required to submit additional information, request a meeting date and has failed to do so, or no Applicant activity or progress has occurred on the application for a period of more than six (6) months. When a project becomes inactive, the application shall become expired. Submittal of a new application and fees shall be required to pursue the request.

A written application for an extension must show good cause for the extension along with an estimated time for submittal for the additional information or submittal of a request for a hearing date. The Zoning Administrator may grant an extension of time, for no more than three (3) months, upon timely submission providing that a) the regulatory provisions governing the project has not changed and b) the Zoning Administrator determines that the request for extension of time is for good cause, and c) the project is not become void due to in activity. In determining if good cause for an extension exists, the Zoning Administrator shall consider if the applicant has demonstrated good cause for an extension based upon sufficient hardship. Financial hardship shall not be considered. Only one three (3) month extension may be granted.

These provisions shall apply to all zoning applications on file with the City and to any applications filed thereafter.

Zoning files that were submitted prior to the effective date of these regulations and have become inactive shall have three (3) months from the effective date to submit the required additional information or request a meeting date. Failure to do so will cause the zoning file to become expired. Once a zoning file has been deemed inactive and expired, a new application meeting all submittal requirements in effect at time of submittal and all applicable fees shall be paid.

Chapter 17.55 Residential Cluster

Section 17.550 General Provisions

- A. The following provisions shall apply to all residential cluster development projects:
1. Minimum size. A residential cluster development project shall comprise at least four (4) acres. However, the minimum land area required may be reduced to two (2) acres or less if special circumstances exist, as determined by the city council, after planning commission review and recommendation.
 2. Ownership. The applicant shall be required to prove to the satisfaction of the city that he owns or controls the land subject to the residential cluster development application.
 3. Development Team. An appropriate development team of design professionals (i.e. architect, landscape architect/planner, civil engineer, soils engineer, drainage engineer, etc.,) has been retained by the applicant, with the expertise and experience to carry out the intent of this development and applicable standards.
 4. Phased Development. All proposed phased development be accompanied by a schedule establishing approximate dates when each phase will be complete. Each phase of the development shall include its pro rata share of total planned common open space, facilities and services, as applicable. Amenities serving the entire development may be required to be constructed in the earliest phase of the development.
 5. Provisions, Operation and Maintenance of Common Areas. Where common areas or facilities are proposed, an operation and maintenance program shall be prepared, administered and enforced through approved covenants, conditions and restrictions.
 6. Development Agreements. Completion time and complexity of proposed cluster developments may make desirable a development agreement between the project applicant and the city in order to provide assurance to the city that an approved project will proceed in accordance with the policies, rules and regulations existing at the time of the agreement and subject to conditions of approval.
 7. Subdivision Plat Required. A request for residential cluster development must be accompanied by a subdivision plat, which meets the requirements set forth by Title 16.
 8. Building Permits. No building permits shall be issued for a cluster development unless a final site development plan has been approved in accordance with Chapter 17.54.

Section 17.552 Application Process. The application process for cluster development shall be the site development plan process as set forth in Chapter 17.54.

Chapter 17.56 Conditional Use

Section 17.560 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 17.561 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 17.52.
6. The names and addresses of all property owners of record within four hundred feet (400') of the property in question.
7. Justification as to why the requested conditional use should be approved.

C. 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.

D. The Zoning administrator shall study the application and shall make a report of his findings to the planning commission.

E. The application shall be processed in the same manner as a request for initial zoning and rezoning set forth in Chapter 17.58, except that approval by the city council shall be by resolution.

F. 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.

G. An application shall not be considered accepted until all required information is submitted.

H. 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.

I. Duration. A conditional use permit shall remain in full force and effect as long as the use for which the permit is granted continues or for the term specified on the permit.

Section 17.562 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 review criteria, where applicable:

1. Is the use consistent with the intent and purpose of this title as declared in Chapter 17.10?
2. Is the use consistent with the intent of the zoning district in which the applicant intends to locate such use?
3. Is the use compatible with other uses in the area? Will the impacts generated by the use be abated through the utilization of mitigation measures, such as increased setbacks, screening or buffering?
4. Is the use consistent with the Fountain Comprehensive Development Plan and other approved plans?
5. Will the use create any adverse environmental influences on the surrounding area? For example: will the use generate excessive dust, odors, fumes, noise, glare or vibration?
6. Will the use generate traffic hazards or congestion in the area?
7. Will existing transportation systems be overburdened by the use?
8. Are ingress and egress points appropriately and safely located?
9. Have adequate water, sewer, drainage, and other utility facilities been provided?
10. Is the physical appearance of the site, including building orientation, scale, and architectural treatment and landscaping, sensitive to other uses in the area?
11. Is the use reasonably related to the overall needs of the community?
12. Is the conditional use 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 17.563 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 Chapter 17.54) 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 17.564 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.

Section 17.565 Inactive Applications

A. Zoning files become inactive when the Applicant/Developer is required to submit additional information, request a meeting date and has failed to do so, or no Applicant activity or progress has occurred on the application for a period of more than six (6) months. When a project becomes inactive, the application shall become expired. Submittal of a new application and fees shall be required to pursue the request.

A written application for an extension must show good cause for the extension along with an estimated time for submittal for the additional information or submittal of a request for a hearing date. The Zoning Administrator may grant an extension of time, for no more than three (3) months, upon timely submission providing that a) the regulatory provisions governing the project has not changed and b) the Zoning Administrator determines that the request for extension of time is for good cause, and c) the project is not become void due to in activity. In determining if good cause for an extension exists, the Zoning Administrator shall consider if the applicant has demonstrated good cause for an extension based upon sufficient hardship. Financial hardship shall not be considered. Only one three (3) month extension may be granted.

These provisions shall apply to all zoning applications on file with the City and to any applications filed thereafter.

Zoning files that were submitted prior to the effective date of these regulations and have become inactive shall have three (3) months from the effective date to submit the required additional information or request a meeting date. Failure to do so will cause the zoning file to become expired. Once a zoning file has been deemed inactive and expired, a new application meeting all submittal requirements in effect at time of submittal and all applicable fees shall be paid.

Chapter 17.57 Environmental Assessment Study

Section 17.570 Purpose of Provisions

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 17.571 Required When; Applicable Projects Designated

A. The Zoning administrator, planning commission or Zoning administrator may require an environmental assessment study for any land development application. Conditions under which an environmental assessment study may be necessary include but are not necessarily limited to any significant impact defined as:

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 affect 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.

Section 17.572 Preparation

A. An independent, qualified professional consultant or personnel shall prepare the environmental assessment study.

B. 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.

C. 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.

D. Contents.

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.

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.

E. Cost. The applicant shall pay the cost of preparing the environmental assessment study for the proposed development.

F. 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.

Chapter 17.58 Rezoning Procedures and Amendments

Section 17.580 Initiation of Procedures

A. The procedure for rezoning property may be initiated by the city council, planning commission, Zoning administrator, any citizen of the city, or any landowner 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 17.53 shall be processed as amendments to the official zoning map.

Section 17.581 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 requesting the addition of a land use into a zoning district in which it is not enumerated in this title, or persons appealing a determination of the Zoning administrator regarding the classification of a use, or 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 17.582 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 feet (100') of the boundary of the area in the proposed amendment, excluding any distance for public rights-of-way.

Section 17.583 Zoning and Rezoning Procedure. The procedures for the initial zoning and rezoning of property within the city shall be as provided herein.

A. Pre-application Conference. Prior to submittal of an application to zone or rezone any property, the applicant shall meet with the Zoning administrator concerning the procedures and requirements governing approval of zoning and rezoning. The applicant may submit information regarding proposed uses, general design, density and size of the 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 overall development plan 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 Chapter 17.61 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 Chapter 17.61 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 17.584 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 overall development plan 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 17.585 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 17.586 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.

Section 17.587 Inactive Applications

A. Zoning files become inactive when the Applicant/Developer is required to submit additional information, request a meeting date and has failed to do so, or no Applicant activity or progress has occurred on the application for a period of more than six (6) months. When a project becomes inactive, the application shall become expired. Submittal of a new application and fees shall be required to pursue the request.

A written application for an extension must show good cause for the extension along with an estimated time for submittal of the additional information or submittal of a request for a hearing date. The Zoning Administrator may grant an extension of time, for no more than three (3) months, upon timely submission providing that a) the regulatory provisions governing the project has not changed and b) the Zoning Administrator determines that the request for extension of time is for good cause, and c) the project is not become void due to in activity. In determining if good cause for an extension exists, the Zoning Administrator shall consider if the applicant has demonstrated good cause for an extension based upon sufficient hardship. Financial hardship shall not be considered. Only one three (3) month extension may be granted.

These provisions shall apply to all zoning applications on file with the City and to any applications filed thereafter.

Zoning files that were submitted prior to the effective date of these regulations and have become inactive shall have three (3) months from the effective date to submit the required additional information or request a meeting date. Failure to do so will cause the zoning file to become expired. Once a zoning file has been deemed inactive and expired, a new application meeting all submittal requirements in effect at time of submittal and all applicable fees shall be paid.

Chapter 17.59 Variances and Appeals

Section 17.590 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 17.59. 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 17.591 Time Limit and Procedure for Appeals. Appeals shall be made in writing and filed in accordance with Chapter 2.15 Board of Adjustment.

Section 17.592 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 17.593 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 section 17.593 (A) 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 17.594 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 17.596 Standard of Review for Variance Requests

A. For any requests for variance pursuant to Chapter 17.594, 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 for which the variance is sought, the strict enforcement of the provisions of this title would cause an unnecessary hardship to the applicant.
2. The circumstances causing the unnecessary hardship were not created by an owner or user of the property or by the applicant for the variance.
3. The hardship is not established based on lack of knowledge of the restrictions upon constructing or altering a structure; nor by the purchasing of a property without knowledge of applicable restrictions; nor by showing, that greater profit would result if the variance were granted.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. The granting of the variance is necessary to cause substantial justice to be done.
10. 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 nonconforming use.

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 17.597 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 17.598 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.

Section 17.599 Inactive Applications

A. Zoning files become inactive when the Applicant/Developer is required to submit additional information, request a meeting date and has failed to do so, or no Applicant activity or progress has occurred on the application for a period of more than six (6) months. When a project becomes inactive, the application shall become expired. Submittal of a new application and fees shall be required to pursue the request.

A written application for an extension must show good cause for the extension along with an estimated time for submittal of the additional information or submittal of a request for a hearing date. The Zoning Administrator may grant an extension of time, for no more than three (3) months, upon timely submission providing that a) the regulatory provisions governing the project has not changed and b) the Zoning Administrator determines that the request for extension of time is for good cause, and c) the project is not become void due to in activity. In determining if good cause for an extension exists, the Zoning Administrator shall consider if the applicant has demonstrated good cause for an extension based upon sufficient hardship. Financial hardship shall not be considered. Only one three (3) month extension may be granted. These provisions shall apply to all zoning applications on file with the City and to any applications filed thereafter.

Zoning files that were submitted prior to the effective date of these regulations and have become inactive shall have three (3) months from the effective date to submit the required additional information or request a meeting date. Failure to do so will cause the zoning file to become expired. Once a zoning file has been deemed inactive and expired, a new application meeting all submittal requirements in effect at time of submittal and all applicable fees shall be paid.

ARTICLE VI. INTERPRETATION AND DEFINITIONS

Chapter 17.60 Nonconforming Uses, Structures, Lots And Parking Specifications

Section 17.600 Purpose. The purpose of these provisions shall govern the use and improvement of a nonconforming lot and the modification, expansion, reconstruction, alteration, abandonment and continued occupancy of a nonconforming structure.

Section 17.601 Nonconforming Uses

A. Any use of a building or land lawfully existing at the time of the enactment of this title 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. The continuance, modification, expansion, improvement or abandonment, of all nonconforming 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 uniform building code.

C. The continuation of existing legal nonconforming uses shall be subject to the following conditions:

1. If a legal nonconforming use exists as of the effective date of this title, such use may be continued in accordance with the provisions of this section.
2. Mobile homes or manufactured homes located in zoning districts not permitting their use may continue to be used as a residential dwelling after the effective date of the title, unless abandoned as a dwelling for the period of 3 (three) months or more.

D. The expansion of a use not permitted in the zoning district in which it is located shall be subject to the following conditions:

1. Any expansion of a nonconforming use in a conforming structure requires a conditional use permit from the Zoning administrator and shall meet the following criteria:
 - a. All expansion of the nonconforming use in a conforming structure shall be confined to and conducted wholly within the structure or portion thereof, which is in existence as of the effective date of this title.
 - b. The total cumulative area of all expansions of the nonconforming use occurring after the effective date of this title shall not increase the gross floor area of the nonconforming use by more than twenty percent (20%) above that in existence prior to the effective date of this title, 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.
 - c. 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 governing the use whichever is more restrictive.
 - d. 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.
2. Expansion of a nonconforming use in a nonconforming structure shall not be permitted.

E. Change of a use not permitted in a zoning district in which it is located to any use permitted in the applicable zoning district is allowed in accordance with the following conditions:

1. The change shall not create any additional nonconforming situations nor increase the extent of nonconformance.
2. Any new improvements, other than maintenance of existing facilities, necessitated by the change in use shall conform to all applicable regulations of the zoning district in which it is located. Existing site improvements, which do not conform to the applicable regulations of the zoning district, are not required to be brought into compliance except as required in below or in other applicable parts of this title.
3. Any expansion involved with the change in use shall comply with the applicable regulations of this title.
4. New uses, which require a conditional use permit shall be allowed only if, all proposed and existing improvements, other than existing nonconforming structures, comply with all applicable regulations and development standards of the zoning district in which the use is located as specified in this title.

F. Any use which is not allowed in the zoning district in which it is located and which is discontinued for a period of one (1) year or more shall be deemed abandoned and such nonconforming use shall not be renewed.

Section 17.602 Nonconforming Structures

A. All nonconforming structures shall comply with the provisions of the uniform building code and with all other provisions of the Fountain Municipal Code not inconsistent herewith.

B. The continued use of any structure shall be subject to the following conditions:

1. Continued use of a nonconforming structure is allowed if the structure is nonconforming as of the effective date of this title.
2. If use of a nonconforming structure is ancillary to the primary use on the site, changing the use in the nonconforming 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 for the nonconforming structure.

C. Expansion by increasing the size of the exterior of a nonconforming structure is allowed if the expansion does not increase the extent not the intensity of nonconformance, and does not expand or create a nonconforming use. Without limiting the foregoing:

1. If the structure exceeds applicable lot coverage requirements, expansion shall not be allowed.
2. 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 regulations of this title applicable to the use including but not limited to: setback, lot coverage, and site development standards.

3. 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.
4. 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.
5. If the required number of off-street parking spaces is provided for the proposed expansion in accordance with this title.

D. Nonconforming signs shall be regulated as provided in Section 17.381 (D).

Section 17.603 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 nonconforming use or situations 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 structures shall be allowed and are encouraged.

C. Any nonconforming structure extensively damaged by sudden destruction beyond the control of the user or by fire may be reconstructed or replaced if such destruction does not exceed seventy percent (70%) of the total structure (as determined by the Building Official). 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 and appropriate variances are granted regarding the external configuration of the structure. Prior to the granting of said variance it shall be demonstrated that reconstructing the structure in accordance with the provisions of this title would deprive the owner use of the property in a manner which is equitable to other uses in the same zoning district.

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 unless a variance is obtained for the structure.

Section 17.604 Non-conforming Site Or Lot

A. 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 six (6) 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.

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 occupied according to the permitted uses and other requirements set forth in the district in which the lot is located, provided that no lot area or lot

width is reduced more than one-third (1/3) the zoning requirements otherwise specified by this title. 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 17.605 Nonconforming 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 are nonconforming and may continue to be used subject to the following:

1. Expansion of any conforming or nonconforming 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. Any change or cumulative changes of use in a nonresidential district which increases the total number of required parking spaces by more than twenty percent (20%) above that which is required by the uses existing at the time of adoption of this title shall necessitate the provision of the total number of parking spaces required for all uses.
3. 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.
4. 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. Moreover, if the addition, enlargement, or change in use increases the building or the developed area of the use, or the required parking by twenty percent (20%) or more in a nonresidential district or thirty percent (30%) or more in a residential district, then parking for 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. However, the requirement set forth above shall not apply if the owner in a residential district can demonstrate that his 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, he must immediately comply with this title.
5. All parking and access is subject to permits and requirements of the Fountain Municipal Code or State Highway Access Code.

Chapter 17.61 Public Notice Requirements

Section 17.610 Purpose

A. 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.

Section 17.611 Responsibility

A. It is the responsibility of the applicant to 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 and may keep the hearing open to take additional information to the point a final decision is made. No further notice of a continued hearing need be pursued by the applicant 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, the applicant shall be required to publish the "notice of public hearings" again.

B. These public notice requirements apply to all land within the jurisdiction of the city.

C. No public hearing shall commence, nor testimony taken until these procedures are met by the applicant.

Section 17.612 Public Notice Procedures

A. 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 submitted to the Zoning administrator prior to the hearing date to verify the publication of the required notice.

B. 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 Section 17.386 (F).

C. Notice of the public hearing shall be given by first-class mail to the record owners of property within four hundred feet (400') of the property in question at least fifteen (15) days in advance of the public hearing.

D. The content and wording of all notices of public hearing shall be as specified by city administrative guidelines.

ARTICLE VI. INTERPRETATION AND DEFINITIONS

Chapter 17.70 General Interpretation

Section 17.700 Purpose

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.

B Where not defined herein, the words used in this title shall have the common and customary meaning.

Chapter 17.71 Definitions

Section 17.710 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. ***Accessory Use.*** 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.
3. ***Administrative Citation.*** A citation issued to the owner, lessee, or occupant of a property stating the date, name of the person to whom the notice is issued, address of the property, the violation(s) cited, a time limit of ten (10) business days unless extended for good cause given to remove or correct the cause of such violation, the right to appeal the notice and to request an administrative hearing by making a written demand to the City for a hearing within ten (10) business days unless extended for good cause of service and be signed by the Enforcement Officer.
4. ***Administrative Hearing Officer.*** Person(s) who is designated by the City Manager to conduct administrative hearings on administrative citations or appeals.
5. ***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:
 1. 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;
2. 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."
 3. 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.
 4. Adult hotel or motel: an hotel or motel in which the presentation of adult material is the primary or principal attraction;
 5. 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;
 6. 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;
 7. Adult photo studio: any establishment, which, upon payment of a fee, provides photographic equipment and/or models for photographing "specified anatomical areas."
 8. 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."
6. **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."
 7. **Agricultural Activity.** Farming including plowing, tillage, cropping, installation of best management practices, seeding, cultivating or harvesting for the production of food or fiber products (except commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feed lots); aquaculture; sod productions; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise.
 8. **Agricultural Building.** Any building or accessory structure which is less than thirty-five feet (35') in height and is used for farm operations such as, but not limited to, a barn, grain bin, silo, and farm implement storage building.
 9. **Agricultural Business.** A commercial facility, which offers for sale agricultural products or equipment.
 10. **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.
 11. **Amusement Center.** An indoor place of business where amusement devices are maintained or operated for commercial purposes.

12. **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.
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.** See definition of vehicle.
20. **Bed and Breakfast Inn.** An establishment that provides temporary accommodations to overnight guests for a fee.
21. **Boarding and Rooming House.** A building or portion thereof which is used to accommodate, for compensation, six (6) 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 eaves 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 uniform 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. ***Campground, Commercial.*** An area for recreational vehicles, tents or similar accommodations, providing sanitary facilities, laundry facilities, and disposition of waste, rubbish and debris crated or deposited by its patrons.
29. ***Chicken Hen.*** A female chicken over the age of 4 months.
30. ***Child Care Facilities.*** Any facility, by whatever name known, which is licensed by the State of Colorado and maintained for compensation, for the whole or any part of the day, for the care of greater than six (6) or more children, under the age of sixteen (16) years who are not related to the owner, operator or manager thereof, who do not reside in the facility, and who do not stay overnight. This term includes, without limitation, facilities commonly known as day-care centers, nursery schools, preschools, day camps, and summer camps.
31. ***Clinic, Medical and Dental.*** An establishment where patients are admitted for special study and treatment by two (2) or more licensed physicians and/or dentists and their professional associates, as distinguished from a professional office for general consultation purposes. This term shall not include bed-patient care.
32. ***Cluster Development (Residential).*** A development design technique that concentrates buildings in specific areas on a site within the density range established for the gross tract. The technique allows the remaining land to be used for desirable and proper recreation, common open space, and preservation of environmentally sensitive areas including scenic vistas. It is often combined with certain administrative procedures into planned unit development provisions.
33. ***Commercial.*** An economic activity involving the provision of material goods and commodities or personal or professional skills for economic gain.
34. ***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.
35. ***Concentrated Animal Feeding Operation.*** A parcel of land, with or without buildings, used or intended to be used for the confined feeding, breeding, raising, or holding of animals in excess of 200 animal units.
36. ***Corral.*** An enclosure for confining or capturing livestock, including a pen, riding arena or paddock.
37. ***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.
38. ***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.
39. ***Community Center.*** A meeting place used by members of the community for social, cultural, or recreational purposes.

- 40. *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.
- 41. *Conditional Use.*** 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.
- 42. *Construction Equipment.*** See definitions of vehicle and heavy equipment.
- 43. *Construction Equipment Business.*** An operation, which includes sales, a storage yard, and/or a repair garage for construction equipment.
- 44. *Density (Gross).*** 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 gross acreage. The gross acreage of all the land within the boundaries of the development shall be included in the density calculation except:
 - (1) Land previously dedicated, purchased or acquired for any public use; and
 - (2) 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.
- 45. *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.
- 46. *Development.*** Any man-made change to improved or unimproved real estate, including but not limited to structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 47. *Development Agreement.*** An agreement entered into between the applicant for site specific development plan review and the city, following a public hearing on the application therefore, which may extend the period of time for which the approval of a site specific development plan establishes vested rights. The term or period of such an agreement shall not be less than three years. A development agreement shall, as a minimum, include the following:
- a. Description of the land subject to the development agreement.
 - b. Specification of the permitted uses of the property, the density or intensity of use, the phasing of the development project, and the maximum height and size of proposed buildings.
 - c. Provision, where appropriate, for reservation or dedication of land for public purposes as may be required or permitted pursuant to ordinances, resolutions, regulations, and policies in effect at the time of entering into the agreement.
 - d. Identification of the terms and conditions relating to financing of necessary facilities by the applicant.

- e. Description of all permits needed to be approved for the development of the property.
- f. Provision for commencement dates and completion dates.
- g. Provision for review of compliance with the terms and conditions of the development agreement, on a periodic basis.
- h. Provision for modification, termination, cancellation and enforcement of the development agreement.
- i. Description of any requirements determined to be necessary to protect the public health, safety and welfare.
- j. The development agreement may also cover any other matters consistent with section 24-68-101, et seq., C.R.S., or not prohibited by law.

48. *Drinking Establishment.* A place, which is primarily engaged in the sale of, fermented malt beverages, vinous and spirituous liquors for consumption in the premises. Drinking establishments shall include nightclubs, beer gardens, cocktail lounges, bars, cabarets, discotheques, saloons, and taverns.

49. *Driveway.* A private access roadway that leads to a single lot.

50. *Dwelling, Multi-Family.* 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.

51. *Dwelling, Single-Family.* A detached principal building arranged, designed, and intended to be occupied by not more than one (1) family.

52. *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.

53. *Dwelling Unit.* A building, or portion thereof, which is used exclusively for residential occupancy by one (1) family, which contains cooking, living, sleeping and sanitary facilities and having a separate entrance.

54. *Educational Institution.* Public schools, non-public schools, schools administered and operated by the State, colleges or universities and proprietary schools. The following definitions shall apply to the various types of education institutions:

- a. ***Public Schools.*** Those schools administered by legally organized school districts.
- b. ***Non-Public Schools.*** All private, parochial and independent schools, which provided for the education of compulsory school age pupils comparable to that provided in the public schools of the State. The term comparable shall mean a schedule of at least one hundred eighty (180) teaching days or its equivalent, at least a five and one-half (5 1/2) hour school day, and at least fifty percent (50%) of the school's full-time teaching staff holding valid Colorado teaching certificates.
- c. ***Proprietary Schools.*** Schools such as art schools, business colleges, trade schools and secretarial colleges.
- d. ***College or Universities.*** Such education institutions under charter or license from the State of Colorado.

55. *Elderly.* A person over the age of sixty (60) years.

- 56. *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.
- 57. *Enforcement Officer.*** A duly appointed Code Enforcement Officer, City Manager or the City Manager's designated representative.
- 58. *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.
- 59. *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.
- 60. *Exterior Elevations.***
- 61. *FAA.*** The Federal Aviation Administration.
- 62. *Fabrication.*** The construction of a specific good through the assembly of premanufactured parts, which require no processing modification.
- 63. *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.
- 64. *Family.*** An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons who need not be related by blood or marriage living together as a single housekeeping unit in a dwelling unit.
- 65. *Family Care Home.*** A State licensed facility for child care in a place of residence of a family, person or persons, for the purpose of providing family care and training for a child or children under the age of eighteen (18) years, who are not related to the head of such home. The term includes any home receiving a child or children for regular twenty-four (24) hour care and any home receiving a child or children from any State operated institution for child care, or from any child replacement agency. The term family care home shall include family foster home, receiving home and specialized group home as defined by appropriate State agencies.
- 66. *Feedlot.*** A confined area or structure, pen or corral, used to fatten livestock prior to final shipment, including concentrated animal feeding operations. For the purpose of this Title, open lots used for the feeding and rearing of poultry and manure storage areas off site of a feedlot shall be considered to be animal feedlots.
- 67. *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 cumulative increasing the water elevation more than one foot. That part of the flood plain subject to a one-percent chance of flooding in any given year is designated as an area of special flood hazard by the Federal Insurance Administration.

- 68. Floor Area (Gross).** The sum of the gross horizontal area of all the floors or a building utilized for principal and accessory uses.
- 69. Floor Area Ratio (F.A.R.).** The quotient of the gross floor area of all buildings on a lot divided by the area of said lot, for example:
- a. Floor area = 15,000 square feet.
 - b. Land area = 43,560 square feet.
 - c. F.A.R. = .34
- 70. 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.
- 71. 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.
- 72. Garbage Service Company.** Buildings and yards where vehicles used for the transport of garbage are stored maintained or cleaned.
- 73. Greenhouse or Nursery, Commercial.** An enclosed structure used for cultivating plants in a controlled climate for commercial purposes.
- 74. Group Home.** A state licensed group home for residents for the purpose of providing special care or rehabilitation due to homelessness, physical condition or illness, mental condition or illness, elderly age, or social, behavioral or disciplinary problems as those terms are defined by 31-23-203 C.R.S., as amended, or 42 USC 3602, and an owner occupied or nonprofit group home for the exclusive use of residents who are qualified as being persons sixty (60) years of age or older (the elderly). Group homes shall be classified under two general categories as follows: Type A group home shall consist of up to eight (8) qualified residents, not including service providers and up to four (4) nonqualified, non-service providing residents. Type B group homes shall consist of more than eight (8) qualified residents or more than twelve (12) total residents.
- 75. Hazardous Waste.** Any material, which is defined as such by federal or state law.
- 76. Hazardous Waste Facility.** A facility used for the storage and treatment of hazardous waste.
- 77. 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.
- 78. 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.
- 79. 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, has no exterior indication of the nonresidential use, and does not occupy more than thirty-five percent (35%) of the total floor space of the dwelling unit.

- 80. *Home Improvement Center.*** A business, which offers for sale hardware, tools, lumber, electrical and plumbing supplies, or similar construction materials.
- 81. *Home Occupation.*** A gainful occupation or profession conducted as an accessory use in a residential district.
- 82. *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.
- 83. *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.
- 84. *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.
- 85. *Industry, Light.*** Those industries whose processing or products results in none of the conditions described for heavy industry.
- 86. *Institutional Use.*** A use having a social, educational, cultural, or religious purpose and founded to promote some cause.
- 87. *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.
- 88. *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.
- 89. *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 four (4) or more dogs above the age of four (4) months.
- 90. *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.
- 91. *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.
- 92. *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.

- 93. 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.
- 94. Lot Area.** The area of a horizontal plane bounded by the front, side and rear lot lines.
- 95. Lot Depth.** The distance between the midpoints of the front lot line and the mid-point of the rear lot line.
- 96. 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.
- 97. Lot Line, Rear.** The line opposite the front lot line.
- 98. Lot Line, Side.** Any lot lines other than the front lot line or rear lot line.
- 99. 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.
- 100. Lot Width.** The distance parallel to the front lot line, measured between side lot lines at the front building setback line.
- 101. 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.
- 102. 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."
103. **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.
 104. **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.
 105. **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.
 106. **Module 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 distinguishes them from manufactured housing.
 107. **Mobile Home.** A structure having the physical characteristics of a Type II Manufactured Home, but which was constructed before the effective date of 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, "Mobile Home" shall be deemed synonymous with "Type II Manufactured Home."
 108. **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.
 109. **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.
 110. **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.

- 111. *Office, Administrative, Business or Service.*** An establishment where business is transacted or which is the headquarters of an enterprise or organization; the sale of merchandise is secondary and incidental to the performance of a service.
- 112. *Office, Professional.*** An office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists.
- 113. *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. 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 lake shores, beaches, rivers and streams, privately owned recreation areas.
 - 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.
- 114. *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.
- 115. *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.
- 116. *Parcel.*** A lot or tract, or contiguous groups or portions of such lots or tracts.

- 117. *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 or 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.
- 118. *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.
- 119. *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.
- 120. *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.
- 121. *Person.*** The word person shall also include association, firm, co-partnership or corporation.
- 122. *Pikes Peak Regional Building Code.*** The currently adopted edition of the Pikes Peak Regional Building Code and secondary codes referred 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
- 123. *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.
- 124. *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.
- 125. *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. For purpose of Section 17.165 (Right of Entry) of this chapter, real property does not include any house, building, or other structure located within any lot or parcel of land in the City.
- 126. *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.

- 127. *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.
- 128. *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.
- 129. *Religious Institution.*** Establishment for the conduct of religious activities, including accessory housing. This term includes the terms church, temple, seminary, retreat, monastery, and similar terms.
- 130. *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.
- 131. *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.
- 132. *Restaurant.*** An establishment whose primary business is the sale of food in a ready to consume state.
- 133. *Retail Sale.*** A sale to the ultimate consumer for direct consumption and not for resale.
- 134. *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.
- 135. *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.
- 136. *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.
- 137. *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.

- 138. *Shelter for the Homeless.*** A residential facility, which provides temporary group lodging and meals to individuals in need due to poor economic circumstances or social disability.
- 139. *Shopping Center:*** A group of commercial establishments planned, constructed and managed as a total entity on the same or adjacent lots including pad sites, with shared or joint customer and employee parking provided on-site, with a provision for shared or individual goods delivery separated from customer access, with common architectural design, and landscaping and signage in accordance with an approved plan.
- 140. *Site Development Plan/Final Development Plan.*** A plan describing with reasonable certainty the type and intensity of use proposed for a specific parcel or parcels of property. Such plan shall constitute the final approval step, irrespective of title, which occurs prior to building permit application. For detached one-family and two-family dwelling units, the final plat shall constitute a site development plan. For all other uses, a site development plan, pursuant to Chapter 17.54, shall constitute a site-specific development plan.
- 141. *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.
- 142. *Solid Waste Disposal Site and Facility.*** The location and facility at which the deposit and final treatment of solid wastes occur.
- 143. *Stable, Commercial Riding.*** A building where horses are boarded for remuneration and/or where horses are kept for sale or hire.
- 144. *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.
- 145. *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.
- 146. *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 inches (2") wide and extending all but one foot (1') of the length of the parking space.
- 147. *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 six feet (6') or less in height.
- 148. *Structural Alteration.*** Any change which would tend to prolong the life of the supporting members of a structure, such as bearing walls, columns, beams or girders.
- 149. *Structural Height.*** The vertical distance measured from grade to the highest point of the structure. It does not include onsite built structures.

- 150. *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.
- 151. *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.
- 152. *Truck.*** See definition of vehicle.
- 153. *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.
- 154. *Use, Principal.*** The primary purpose or function that a lot serves or is intended to serve.
- 155. *Use, Temporary.*** Any activity, occupation, business, or operation carried on, or intended to be carried on, in or from a tent, movable stand, portable equipment, or any temporary structure, or in or from any automobile, for a short period of time.
- 156. *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.
- 157. *Vehicle.*** 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.
- 158. *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.
- 159. *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.
- 160. *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.

- 161. 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.
- 162. Wholesale.** The sale of goods to a retailer.
- 163. 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.
- 164. Yard, Front.** A yard extending across the full width of the lot between the front lot line and the principal building, the depth of which shall be the least distance between the front lot line and the nearest portion of the principal building.
- 165. Yard, Rear.** A yard 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.
- 166. 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.
- 167. Zoning Administrator.** Includes the zoning administrator's designee.