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DIVISION 1: GENERAL PROVISIONS

Sec. 21-5100. Purpose

This article outlines the uses, both temporary and permanent, that are permitted within the city. Not all uses are permitted in every zone district and therefore, any person using property within the city should refer to this article to determine whether the use is permitted on their property and the standards applicable to that use. This article also details the accessory structures that may be erected and the standards that apply to such structures.

Sec. 21-5110. Use and Accessory Structures Restricted

No land shall be used and no accessory structure shall be erected, structurally altered, relocated, or used except for in compliance with this land development code.

Sec. 21-5120. Performance Standards

Uses permitted under this land development code may be undertaken and maintained only in conformance with the following standards. An applicant for a proposed use may be required to submit evidence that a use complies with these standards, including a report prepared by an expert. Such expert shall be fully qualified to give the required information and shall be acceptable to the director. The cost of the expert's services shall be borne by the applicant.

(1) **Vibration.** Uses that generate vibrations in violation of this section shall be cushioned or isolated to prevent generation of vibrations. Uses shall be operated in compliance with the following provisions:

(a) Uses shall not generate ground vibration that is perceptible without instruments by the average person at any point along or beyond the property line of the parcel containing the activities;

(b) Uses shall not generate vibrations that cause discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, repose, health or peace of residents whose property abuts the property line of the parcel; and

(c) Uses shall not generate ground vibration that interferes with the operation of equipment and facilities of adjoining parcels.

(d) Vibrations from temporary construction/demolition and vehicles that leave the subject parcel (e.g., trucks, trains, and aircraft) are exempt from the provisions of this section.

(2) **Noise.** Uses and activities shall be conducted so that any noise generated on the property will not violate the noise regulations contained in the municipal code.

(3) **Air Pollution.** Activities in all zone districts shall conform to applicable federal, state, and local air pollution standards. The applicant may be required to provide proper documentation justifying that all operations will be in compliance with federal, state and local air pollution standards.

(4) **Odor.**

(a) Uses shall not result in the creation of odors of such intensity and character either on or off property as to be detrimental to the health and welfare of the public or that interferes unreasonably with the comfort of neighboring property owners. Without limiting the foregoing, odorous emissions shall comply with applicable provisions of the federal, state, and local requirements.

(b) Agricultural operations conducted in compliance with this land development code shall be exempt from this paragraph, unless the odor created constitutes a health hazard.

(5) **Dust.** No dust or particulate matter shall be emitted that is detectable by a reasonable person without instruments. Nonresidential exhaust air ducts shall be located or directed away from abutting residentially zoned properties.

(6) **Electromagnetic Radiation.** It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communications, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes except in compliance with the Federal Communications Commission (FCC) regulations, or in the case of governmental agencies and governmental-owned plants, the regulations of the interdepartmental radio advisory committee. Any application for a proposed use or activity emitting electromagnetic radiation shall include an expert report that demonstrates conformance with the applicable regulations of the FCC, or interdepartmental radio advisory committee, as applicable.

(7) **Hazardous Materials.** All activities and all storage of hazardous materials shall comply with all federal and state regulations as well as any applicable safety, fire and building codes adopted by the city for the use and storage of the hazardous materials involved. Adequate precautions shall be taken to protect against negative off-site impacts of a hazardous materials release, using the best available technology.

(8) **Glare and Heat**. No direct or sky-reflected glare, whether from lights or from high temperature mechanical or chemical processes such as combustion or welding, shall be permitted to unreasonably interfere with the use and enjoyment of adjacent properties. These regulations shall not apply to signs or floodlighting or parking areas otherwise permitted by this land development code. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

(9) **Materials and Waste Handling.**

(a) No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground.

(b) All materials or wastes that might cause fumes or dust, or that constitute a fire hazard or may be edible by or otherwise be attractive to rodents or insects, shall be stored outdoors only in enclosed, permeable trash containers that are screened in accordance with this code.

(c) Toxic and hazardous materials and chemicals shall be stored, secured, and maintained so that there is no contamination of ground, air, or water sources at or adjacent to the site.

(d) Notwithstanding anything contained herein, all treatment, storage, disposal, or transportation of hazardous waste shall be in conformance with all federal and state statutes, codes, and regulations.

(e) Provisions shall be made so that all lubrication and fuel substances shall be prevented from leaking or draining onto the property.

(f) Non-radioactive liquid or solid wastes. There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the Tri-County Health Department and South Adams County Water and Sanitation District.

Sec. 21-5130. Nuisances and Hazards

The city may require a use or structure that has become hazardous, harmful, noxious, offensive, or that constitutes a nuisance to the surrounding neighborhood to be corrected or improved by any measure that is consistent with reasonable technological and economic practicality.

DIVISION 2: PRINCIPAL USES

A. GENERAL PROVISIONS

Sec. 21-5200. Land Use Table

The principal uses allowed in each of the city's zoning districts are established in the Land Use Table (table V-1. An "R" indicates that the use is allowed as a use-by-right in the district. A "P" means that the use will only be allowed if a use-by-permit is obtained. A "C" means that the use will only be permitted if a conditional use permit is obtained. If the cell is blank, the use is prohibited in that district. Some uses are subject to standards, limitations and conditions which are in addition to the general development standards of this article. Where the right column in table V-1 includes a section number, the provisions in the referenced section apply to the use in addition to the other applicable sections of this land development code. However, the information contained in the right hand column of the table is included only to aid users and is not intended to be an exhaustive or complete list of all applicable regulations. NAICS code numbers are included on this table to assist the city in classifying proposed uses. They are for reference only and shall not be binding in any classification decision.

Sec. 21-5205. Unclassified Uses

(1) **General Prohibition.** Any specific use not listed in the use table above shall be prohibited unless the city determines, consistent with the provisions of paragraph (2) of this section, that the use falls into one of the listed use classifications.

(2) **Review and Interpretation.** In the event that a proposed use is not specifically listed in the use table, an applicant may seek a written interpretation from the director that the use falls into one of the listed classifications allowed in the applicable zoning district. The director shall base this determination on the following considerations:

(a) Whether the proposed use is similar in terms of hours of operation, traffic impacts, environmental impacts, and the potential for adverse impacts on surrounding properties;

(b) Whether the proposed use is typically housed in buildings or structures similar and compatible to those used to house allowed uses in the zoning district; and

(c) Whether the proposed use is consistent with the purpose and intent of the particular zoning district.

USES ALLOWED BY ZONING DISTRICT

R = ALLOWED BY RIGHT P = USE BY PERMIT C = CONDITIONAL USE OG = OIL & GAS PERMIT BLANK CELL = EXCLUDED

USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-2	I-3	AG	PUBLIC	ADDITIONAL REGULATIONS
AGRICULTURAL USES																	
Agriculture	Crop production, including the sale of agricultural products directly from the grower to the consumer on land that is part of the farm unit	111													R		
	Dairy products manufacturing, exclusively grown on premises	3115													R		
	Food manufacturing, miscellaneous, all other, exclusively grown on premises	3119													R		
	Food manufacturing, specialty and fruit and vegetable preserving, exclusively grown on premises	3114													R		
	Grain and oilseed milling, exclusively grown on premises	3112													R		
	Wineries, processing fruits exclusively grown on premises	31213													R		
Agricultural Services	Agricultural support businesses and services	1151											C	C	R		
	Animal production, excluding NAICS 112990	112													R		21-5246
	Animal production support services	1152												R	R		
	Cattle feedlot, stockyard, and the commercial sale of livestock	112112												C	C		
	Firewood; commercial storage and sales	454319											R	R	R		
	Fish hatchery	112511													R		
	Poultry house or pigeon coop	1123													R		
	Riding stables/ equestrian training	115210													R		
	Rodeo	711310													C		
	Veterinary services (livestock)	541940													R		
Horticulture & Nurseries	Community garden		R	R	R	R	R	R	R	R	R	P	P	P	R	R	21-5226
	Greenhouse/nursery/tree production (with no outdoor storage)	11142								R		R	R	R	R		21-5236
	Greenhouse/nursery/tree production (with outdoor storage)	11142											R	R	R		21-5236
	Sod farm	11142													R		
COMMERCIAL USES																	
Adult Businesses	Sexually Oriented Businesses											R	R	R			21-5262
Animal Services	Animal boarding (indoor/outdoor kennels) and training											P	P	P	R		21-5242
	Doggie day care centers									P	P	P	P	P	R		21-5228
	Veterinary offices or clinics							R	R	R	R	R	R	R	R		
Building Materials & Services (Retail)	All other similar uses (plumbing, electrical, lumber & building equipment-without outdoor storage)									R	R	R	R	R			
	All other similar uses (plumbing, electrical, lumber & building equipment-with outdoor storage)												R	R			21-5254
	Landscape equipment, hardscape materials (without outdoor storage)											R	R	R	R		21-5236
	Landscape equipment, hardscape materials (with outdoor storage)												R	R	R		21-5254
Eating and Drinking Establishments	Bar, tavern, night club								R	R	R	R	R	R			21-5214
	Catering services							R	R	R	R	R	R				
	Restaurant with drive-thru/up								R	R		R					21-5230
	Restaurant without drive-thru/up							R	R	R	R	R					
Financial Institutions	Bank or financial institution							C	R	R	R	R					

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USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-2	I-3	AG	PUBLIC	ADDITIONAL REGULATIONS
Food and Beverage Sales	Convenience store/grocery store (<5,000 sf)							R	R	R	R	R					
	Grocery store (>5,000 sf)								R	R	C	R					
	Liquor store								R	R	R	R					21-5214
	All other similar uses (e.g., delicatessen, retail bakery, specialty food market, coffee shop)							R	R	R	R	R					
Fuel Sales	Fuel sales with no vehicle repair								P	R		R	R				21-5235
	Fuel sales with minor vehicle repair								P	R		R	R	R			21-5235
	Fuel sales with major vehicle repair											R	R	R			21-5235
Funeral and Internment Services	Cemetery/pet cemetery/ mausoleum														R	R	
	Crematory or mausoleum when incidental or supplemental to primary cemetery use														R	R	
	Crematory as principal use												P	R			
	Funeral home							C	R	R		R					
Office	Business or professional (including medical/dental office/clinics)							R	R	R	R	R					
	Courier services							R	R	R	R	R	R	R			
	Massage therapy office/clinics							R	R	R	R	R					
	Medical marijuana business and/or primary caregivers											C	C	C			21-5249
	Substance Abuse Treatment Facility, Inpatient Residential											C	C	C	C	C	21-5238
	Substance Abuse Treatment Facility, Outpatient Clinic							P	R	R		R					
Personal Services	Instructional services, studios							R	R	R	R	R	R	R			
	Temporary/day labor facilities/offices									C		C	C	C			
	Bail bonds											P	P	P			21-5220
	All other similar uses							R	R	R	R	R	R				
Recreation or Amusement Facilities, Private	Bingo establishments/social gaming outlet/performance centers								R	R	R	R					
	Bowling, billiards, movie theaters & similar uses								R	R	R	R					
	Drive-in theater								C	C							21-5230
	Health clubs								R	R	R	R					
	Outdoor recreation				P				R	R					P		
	Race track (animal or vehicle)									C		C					
Repair Services (Not Including Vehicles)	Furniture or major household appliance repair									R		R	R	R			
	All other similar uses									R	R	R	R	R			
Retail Establishments	Flea markets, indoor/outdoor									P	P	P	P				
	Machinery sales, excluding truck trailers, heavy equipment, and farm machinery									R		R					
	Pawn shop									P		P					
	Retail business store < 25,000 square feet							R	R	R	R	R					
	Retail business store > 25,000 square feet							C	R	R	C	R					
	Tattoo parlor							P	R	R	R	R					
	Thrift/consignment store							R	R	R	R	R					
Telecommunications Facilities and Antennas	Antennas for commercial/industrial use accessory to principal use									P		R	R	R			21-5268
	Antenna and support structure for amateur radio communications		P	P	P	P	P								P		21-5216
	Radio or television broadcasting facilities/offices								R	R	R	R				C	21-5268
	Telecommunication facility (free-standing)							P	P	P	P	P	P	P	P	P	21-5268

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Vehicle/Equipment Sales and Services	Automobile rentals									R		R	R				21-5272
	Automobile washing facility								R	R		R	R				21-5218
	Limited equipment rental (U-Haul type business)											R	R	R			21-5272
	Major equipment repair											R	R	R			
	Mobile home dealer/sales												R	R			
	Motor vehicle dealer/sales, new and used automobiles < 3 acres									R		R					21-5272
	Motor vehicle dealer/sales, new and used automobiles > 3 acres									C		C					21-5272
	Motor vehicle dealer/sales, new and used RV's, trailers, and campers)											R	R	R			21-5272
	Tire shop									R		R	R	R			21-5271
	Vehicle repair, major (includes auto body repair, paint shops, and incidental sales of parts)											R	R	R			21-5271
	Vehicle repair, minor								P	R		R	R	R			21-5271
	Vehicle storage (inoperable vehicles)													C			
	Vehicle storage (operable vehicles only)												R	R			
	Vehicle towing services											R	R	R			
Visitor Accommodations	Bed and breakfast establishments		P	P	P	P		R							R		
	Hotel or motel lodging establishments								P	R	R	R					21-5248
	Overnight campground														P	P	
INDUSTRIAL USES																	
Auction House or Yard	Auction house (inside)	453998										C	C	C			
	Auction house or yard (outside)	453998											C	C			
Contractor Operations	Building, developing, general contracting	236										R	R	R			
	Contractor's shop and storage yard	236-238											R	R			21-5254
	Contractor - landscaping	561730											R	R	R		
	Heavy construction equipment (new/used sales and storage)	237											R	R			
	Special trade contractors	238										R	R	R			
Manufacturing, Chemical	Basic chemical manufacturing	3251											C	R			
	Explosives, including ammunition and fireworks	32592												C			
	Fertilizer manufacture, organic or nonorganic, and pesticides	32531												C	C		
	Fiberglass manufacturing	327993											R	R			
	Glue, gelatin (animal), or caulking compound manufacturing	32552												C			
	Industrial launderers/dry cleaning plants	812332												C			
	Insecticides, fungicides, disinfectants, and related industrial and household chemical compounds (blending only)	3253												C			
	Nitrate manufacturing	32592												C			
	Paint, coating, and adhesive product manufacturing	3255												R			
	Pharmaceutical and medical product manufacturing	3254											R	R			
	Plastic product manufacturing, including extrusion of plastic	3261											R	R			
	Resin, synthethic rubber, artificial and synthetic fibers/fill manufacturing	3252											R	R			
	Rubber product manufacturing	3262											R	R			
	Soaps, cleaner and toilet preparation manufacturing	3259											R	R			
	Tire manufacturing	32621												C			

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Manufacturing, Food	Animal food manufacturing	311119												C			
	Bakeries, pasta and tortilla manufacturing	3118										R	R	R			
	Beverage manufacturing	3121										R	R	R			
	Dairy product manufacturing	3115										R	R	R			
	Fruit and vegetable preserving, and speciality food manufacturing	3114										R	R	R			
	Grain and oilseed milling, including grain elevator	3112												R	R		
	Meat products, including slaughtering	31161												C			
	Meat products, packing & processing (no slaughtering)	311612										R	R	R			
	Rendering and meat byproduct processing	311613												C			
	Other food manufacturing	311999										R	R	R			
	Poultry packing & slaughtering	311615												C			
	Sugar and confectionary product manufacturing	3113												C			
	Tobacco manufacturing	3122												C			
Manufacturing, Machinery	Aerospace product and parts manufacturing	3364											R	R			
	Commercial and service industry machinery manufacturing	3333										R	R	R			
	Computer and electronic product manufacturing	334										R	R	R			
	Electrical equipment, appliance and component manufacturing	335										R	R	R			
	Furniture and related product manufacturing	337										R	R	R			
	HVAC and commercial refrigeration equipment manufacturing	3334											R	R			
	Metalworking machinery	3335										R	R	R			
	Miscellaneous manufacturing	339										R	R	R			
	Motor vehicle and transportation manufacturing	3361											R	R			
	Power distribution and speciality transformer	335311												C			
	Relay and industrial control manufacturing	335314												C			
	Ship and boat building/repair	33661											R	R			
	Signs manufacturing	339950											R	R			
	Switchgear and switchboard apparatus	335313												C			
Manufacturing, Metal	Alumina refining and production	33131												C			
	Architectural metals manufacturing	3323											R	R			
	Boiler tank and shipping container manufacturing	3324												C			
	Coating/engraving/heat treating processes	3328												R			
	Cutlery and handtool manufacturing	3322										R	R	R			
	Electrometallurgical manufacturing	33111												C			
	Fabricated metal product manufacturing	332												R			
	Ferroalloy product manufacturing	331112												C			
	Galvanizing	332812												C			
	Other fabricated metal product manufacturing	33299												R			
	Machinery shops; turn products; screw, nut, and bolt manufacturing	3327										R	R	R			
	Metal and metal ores, reduction, refining, smelting, and alloying	33131 / 33141												C			
	Primary metal manufacturing	331												C			
	Sandblasting operations - indoor	332813												C			
	Spring and wire product manufacturing	3326											R	R			
	Steel and iron works and rolling mills (ferrous)	33111												C			

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Manufacturing, Non-metallic Mineral	Brick, firebrick refractories and clay products	32712												R			
	Concrete/cement batching plant (ready-mix) and concrete product manufacturing	3273												C			
	Construction/building, masonry/veneer/block, manufacturers/fabrication													R			
	Nonmetallic mineral product manufacturing	3271											R	R			
	Monument or gravestone processing and shaping, including sales	327991											R	R			
	Stucco manufacturing	327999												R			
Manufacturing, Oil and Gas	Asphalt batch plant	324121												C			
	Petroleum and coal products manufacturing	324												C			
	Petroleum product containment (including asphaltic oil)													C			
	Refining operations including bio-diesel													C			
	Support activities for oil and gas operations (pipelines, etc.)	213112	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Manufacturing, Textile	Apparel manufacturing	31521										R	R	R			
	Fabric mills	3132											R	R			
	Leather and allied product manufacturing	316												C			
	Leather and hide tanning and finishing	3161												C			
	Textile/fabric finishing/fabric coating mills	3132												C			
	Textile products mills	314											R	R			
Manufacturing, Wood Product	Basket and hamper (wood, reed, rattan, etc.) manufacturing	32192										R	R	R			
	Box and crate manufacturing	32192										R	R	R			
	Pulp good, pressed or molded (including paper mache products)	32229											R	R			
	Veneer, plywood, and engineered wood product manufacturing	3212												C			
	Wood preservation	321114											C	C			
	Wood product manufacturing	3212- 3219										R	R	R			
	Wood pulp or fiber; reduction or processing	3212												R			
	Wood pulp, paper, and paperboard mills	3221												C			
Motion Picture and Video Industry	Motion picture and video industry	51211								R	P	R	R	R			
Outdoor Storage	Above-ground storage tanks < 48,000 gallons											R	R	R		R	21-5212
	Above-ground storage tanks > 48,000 gallons													C		R	21-5212
	Above-ground storage tanks of propane < 10,000 cubic feet capacity		R	R	R	R	R	R	R	R	R	R	R	R	R	R	
	Contractor shop and storage (except junk)											P	R	R			21-5254
	Modular nonresidential unit (sales, rental, or service)												R	R			21-5254
	Outdoor storage of vehicles (RVs, boats, or buses)												R	R			21-5254
	Outdoor storage											*	R	R			21-5254
Printing and Publishing	Printing and related support activities	3231										R	R	R			
	Publishing industry	511										R	R	R			
Railroad Services	Railroad spur												C	C			
	Rail transportation and support facilities including rail yard	482 & 4882											C	C			
Research and Development Services	Scientific R & D services	5417										R	R	R			
	Solar panel array, production and distribution													R			
	Testing laboratories, non-medical	54138										R	R	R			
	Testing of jet engines or rockets	54138												C			
	Trade and technical uses											R	R	R			

USES ALLOWED BY ZONING DISTRICT

R = ALLOWED BY RIGHT P = USE BY PERMIT C = CONDITIONAL USE OG = OIL & GAS PERMIT BLANK CELL = EXCLUDED

USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-2	I-3	AG	PUBLIC	ADDITIONAL REGULATIONS
Resource Extraction	Borrow pit	212319												C	C		21-5222
	Construction sand and gravel mining	21232												C	C		
	Minerals and earths: quarrying, extracting, grinding, mining, crushing, and processing	212												C	C		
	Ore dumps and elevators	212												C	C		
	Subsurface extraction (including oil and natural gas extraction)	211-213	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG		21-5266
Toxic/Hazardous Uses	The parking and storage of toxic or hazardous material													C			
	The manufacturing, processing, use, sale, or storage of any flammable, corrosive, explosive, or toxic substance													C			
Truck/ Transportation Services	Transportation terminal	488490										C	R	R			21-5270
	Transportation terminal where vehicles carry flammable, explosive, hazardous, or high toxic materials													C			21-5270
	Trailer sales and service limited to use for private passenger motor vehicles									R		R	R	R			21-5272
	Truck sales (non-trailer)											R	R	R			21-5272
	Truck stop	488490										C	C	C			21-5270
	Truck and/or truck trailer sales, repair, and/or maintenance (including oil, lube, and/or wash)	811111										*	R	R			21-5218
Warehousing & Distribution	Household moving center	4842										R	R	R			
	Motor freight transportation terminal and shipping, excluding couriers	4841										R	R	R			
	Mini-storage and warehouse with outdoor storage	531130											R	R			21-5250
	Mini-storage and warehouse without outdoor storage	531130										R	R	R			21-5250
	Produce storage and warehousing	49313										R	R	R			
	Retail sales in conjunction with warehouse establishment											R	R	R			
	Warehousing and storage, general	4931										R	R	R			
Waste-Management and Remediation Services	Composting facilities (non-hazardous)	56221												C	C		
	Hazardous waste collection, treatment, and disposal	562211												C	C	C	21-5258
	Landfill, construction/demolition	562219												C	C	C	21-5244
	Landfill, solid waste	562212												C	C	C	21-5244
	Radioactive waste handling	562211												C			
	Recycling facilities/material resource recovery facility	56292												C		R	21-5256
	Scrap metal collection and transfer facility	56292												C			21-5258
	Solid waste combusters and incinerators	56221											C	R			
	Tire collection, reduction and transfer facility (including scrap tires)	56211												C			21-5260
	Refuse transfer facility and/or transfer facility													C			21-5258

USES ALLOWED BY ZONING DISTRICT

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USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-2	I-3	AG	PUBLIC	ADDITIONAL REGULATIONS
Wholesale Establishments (Including Accessory Offices)	Auto crushing													C			
	Auto dismantling, storage or used parts sales (inoperable vehicles)													C			
	Building materials, garden equipment, and supply dealers	4441										R	R	R			
	Food Production	4244										R	R	R			
	Grocery and related product wholesale	4244										R	R	R			
	Junkyards, open or enclosed													C			
	Machinery, equipment and supplies, wholesale	4234											R	R			
	Metal and mineral (except petoleum) wholesale	4235											R	R			
	Retail sales in conjunction with wholesaling									C		R	R	R			
	Salvage yard	493190												C			
	Warehousing and wholesaling establishments excluding explosives and live animals											R	R	R			
	Wholesale establishments incidental to other principal uses									C		R	R	R			
	Wholesale houses and distributors (including warehouse clubs)	45291								R		R	R	R			
PUBLIC, INSTITUTIONAL & CIVIC USES																	
Airport/Heliport	Public or private airport or heliport											C	C	C	C	C	
Ambulance Service	Garage and office for ambulance service							R	R	R		R	R	R		R	
Clubs and Lodges	Private lodge or club							P	R	R	R	R	R	R			
	Gun club (indoor)											R	R	R	R	R	
	Gun club (outdoor)														C	C	
Community Services	Events center < 15,000 sf								R	R		R	R	R			
	Events center > 15,000 sf									R		R	R	R			
Day Care Facilities, Adult or Child	Child care center		P	P	P	P	P	R	R	R	R	R			P		21-5224
	Adult day care center		P	P	P	P	P	R	R	R	R	R			P		
	Day care home		R	R	R	R	R	R	R								21-5224
Golf Course	Golf course/driving range								C	C					P	R	
Hospitals	Hospital								C	R		R				R	
	Outpatient surgical centers								R	R		R				R	
Public Lands, Parks, and Buildings	Library				P	P		R	R	R	R	R				R	
	Public administrative office or service building							R	R	R	R	R	R	R		R	
	Public park or recreational facilities		R	R	R	R	R	R	R	R	R	R	R	R	R	R	
	Public stadium, arena, or auditorium															R	
	Police or fire station															R	
	Other public facility															R	
Religious Institutions	Church or religious institution		P	P	P	P	P	R	R	R	R	R					
Educational Facilities	Elementary and secondary education schools		P	P	P	P	P	R	R	R	P	R			P	R	21-5232
	Private business, trade, and vocation schools		P	P	P	P	P	R	R	R	P	R	R		P	P	21-5232
	Post secondary colleges and universities								C	C	C	C				R	21-5232
	Schools of special instruction		P	P	P	P	P	R	R	R	P	R			P		21-5232
Transportation Facilities	Private automobile parking lots or parking garages as a principal use									C		C	C	C			
	Parking garage									R	R	R	R	R		R	
	Public parking lot															R	

USES ALLOWED BY ZONING DISTRICT

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USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-2	I-3	AG	PUBLIC	ADDITIONAL REGULATIONS
Utilities	Electric substation or gas regulator station							C	C	C		C	C	C	C	C	21-5234
	Power plant													C			
	Public utility installation		C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Public utility office								R	R	R	R				R	
	Public utility storage yard												R	R			
	Water or wastewater treatment facility													C		C	
	Wind energy conversion systems (windmills)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	21-5264
Zoos, Arboretum, Botanical Gardens	Zoos, arboretum, botanical gardens									C					C	R	
RESIDENTIAL USES																	
Group Living Facilities	Group Home - Type A		R	R	R	R	R				R	R			R		21-5238
	Group Home - Type B		C	C	C	C	C					C			C		21-5238
	Correctional institution or halfway house											C	C	C	C	C	21-5238
Household Living	Foster care home		R	R	R	R	R				R				R		
	Mobile home						R										
	Multi-family dwelling				R	R					R						
	Single-family detached dwelling		R	R											R		
	Single-family attached dwelling			R	R												
	Boarding or rooming house				R	R					R						
	Home occupation		R	R	R	R	R				R				R		21-5240
Senior Housing	Assisted living facility				R	R		P	R	R	R						
	Nursing homes				P	P		P	R	R	P						

**Use-by-Permit in I-1S (See Section 21-4510)*

Table V-1 amended by Ord. 1854, April 2011

Table V-1 amended by Ord. 1887, July 2012

Table V-1 amended by Ord. 1897, July 2012

Table V-1 amended by Ord. 1891, August 2012

(3) **Appeal.** A determination by the director that the proposed use does not fall into a permitted use classification may be appealed pursuant to the procedures outlined in article III of this land development code. Unless the director's decision is overturned on appeal, the proposed use shall be prohibited until this article is amended to indicate that such use is an allowed or special use permit in one or more zoning districts.

Sec. 21-5210. Limitation

Unless expressly authorized by the city or the terms of this land development code, no property shall be used for more than one category of use (i.e., industrial, residential, commercial, or public/institutional).

B. SUPPLEMENTAL REGULATIONS FOR PARTICULAR USES

The following sections establish special regulations for land uses that may affect adjacent properties, the neighborhood, or community, even if the site planning and development standards of the applicable zoning district are satisfied. The regulations contained in these sections are intended to mitigate potential problems and hazards, and to ensure consistency with the comprehensive plan.

Sec. 21-5212. Above-Ground Storage Tanks

(1) All tanks shall meet the applicable building and fire code requirements.

(2) No tank used for the storage of liquids shall exceed 12,000-gallons capacity unless the city has issued a conditional use permit specifically allowing the use of such tank.

(3) No more than 48,000 gallons of capacity shall be permitted on any single property parcel without a conditional use permit. No conditional use permit allowing a property to store more than 48,000 gallons shall be granted unless the property is at least 3 acres in size and is zoned I-3.

(4) No more than 10,000-cubic feet of capacity for the storage of flammable gases shall be permitted on any single property without a conditional use permit.

(5) Tanks for the storage of liquid materials shall be located in side or rear yards.

(6) The refueling of motorized vehicles from above ground storage tanks is permitted only to the extent such activity is authorized by the fire and building codes adopted by the city.

Paragraph (5) amended by Ord. 1854, April 2011

Sec. 21-5214. Alcohol Sales

(1) **Location to Other Alcohol Establishment.** No retail liquor store, tavern, or beer and wine business, as defined by state law, shall be operated or maintained within 2,500 feet of an establishment that holds the exact same class of liquor license and is located within the municipal boundaries of the city without first obtaining a use-by-permit.

(2) **Location to Residential.** Unless a conditional use permit is obtained, no business whose operations require both a liquor license and a Class 1 entertainment establishment license shall be operated or maintained within 2,000 feet of any residential zone district or any legally authorized residence, whether located in or outside of the city. For purposes of this section, distance shall be measured from the nearest point of the licensed establishment to the nearest point of the residential zone district or legally authorized residence.

(3) **Pre-Existing Use.** Any of the aforementioned establishments licensed to sell alcoholic beverages and in operation on February 2, 2004 shall be exempt from the provisions of this section. Such pre-existing uses shall be considered legal non-conforming uses and shall be governed by section 21-5520 (Non-Conforming Use).

Section amended by Ord. 1916, September 2012

Sec. 21-5216. Amateur Radio Facilities

(1) **Purpose and Intent**. The purpose of this section is to establish guidelines for the siting of amateur radio communications towers, antennas, and associated equipment to accommodate amateur radio operations in a way that minimizes the visual impact of such facilities through design and siting.

(2) **Application.** Any person wishing to locate an amateur radio facility or any related apparatus within the city, shall submit an application containing:

(a) A to-scale site plan that shows the zoning of subject property and immediately adjacent properties within 300 feet of the proposed site, all the structures on the property, the location of the amateur radio facility or related facility with setbacks shown, and the elevation of the amateur radio facility or related facility with maximum height illustrated;

(b) If required by the director, a landscape plan detailing the amount and type of screening used to buffer the facilities from public view;

(c) A report including a description of the tower, with technical reasons for its design, availability of suitable existing structures for antenna mounting, and a statement of the required height;

(d) If required by the director, a photo simulation depicting a location from which the facility may be viewed;

(e) Evidence of ability to obtain a bond, letter of credit, or other financial security as required by the director to insure removal of the facility;

(f) A written narrative describing the purpose and need of the amateur radio facility; and

(g) Any additional information as required by the director.

(3) **Operating Standards**.

(a) Roof mounted facilities shall not increase the height of the structure by more than 20 feet.

(b) Antennas shall be setback at a ratio of 1:1 from all property lines.

(c) Neither guy wires nor their foundation shall be located within 5 feet of any property line.

(d) Only one facility shall be permitted on any legally subdivided parcel or lot.

(e) An amateur radio facility and any accessory equipment shall, to the maximum extent feasible, use materials, colors, textures, screening, and landscaping that will blend the amateur radio facility to the surrounding natural setting and built environment.

(f) When installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color so as to make the antenna and related equipment as visually unobtrusive as possible.

(g) No antenna or support structure may be located so as to extend, move or swing beyond the plane of the property boundary at any time.

(h) Crank–up antennas are encouraged to provide enhanced radio capability with minimized neighborhood impact. The crank up tower shall be kept in its lowest extension whenever it is not being used.

(i) Antenna or support structures attached to roofs, chimneys, and other structures shall be screened to the greatest extent possible as determined by the city.

(j) No commercial uses shall be allowed to co-locate on any amateur radio facility or related facility. However, amateur radio facilities shall be allowed to co-locate on properly permitted commercial telecommunications facilities.

(k) Facilities shall be located in the rear yard of property in which it is located or on the rear 1/3 of the principal structure.

(l) Amateur radio facilities shall not be used for commercial purposes.

Sec. 21-5218. Automobile and Truck Wash Facilities

(1) **General Standards.** All automobile and truck wash facilities including automotive detail facilities shall comply with the following standards:

(a) No wash facility shall be located within 200 feet of the intersection of two arterial streets.

(b) The wash facility, including all appurtenant structures, shall be set back a minimum of 20 feet from any adjacent street. The entire 20-foot setback must be landscaped to provide a buffer from adjacent streets.

(c) No wash facility shall be located on a corner lot.

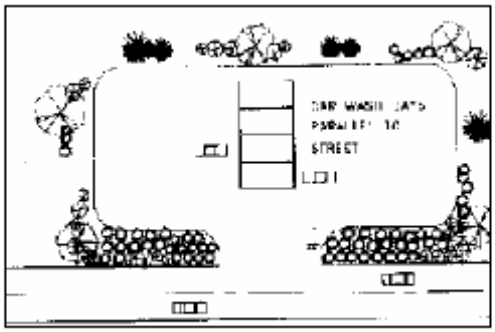
(d) Drying, vacuuming, and detailing areas may not be placed closer than 25 feet from a residential property line.

(e) If the proposed use is adjacent to a residential use, a 20-foot landscape buffer will be required.

(2) **Open Bay Wash Facilities.** In addition to the standards contained in paragraph (1) of this section, all open bay wash facilities shall comply with the following:

(a) Wash bays shall be sited parallel to the adjacent street as shown in figure V-1.

Figure V–1. Siting of Wash Bays



(b) No new wash facility may be located within one-half mile of any other existing wash facility having two or more car wash bays.

(3) **Enclosed Wash Facility.** In addition to the standards contained in paragraph (1) of this section, all enclosed wash facilities shall comply with the following:

(a) All wash bays shall have bay doors. No bay door shall face the adjacent street.

(b) The facility shall be self-contained and no services, including without limitation drying, polishing, or vacuuming, shall be performed outdoors.

Sec. 21-5220. Bail Bond Businesses

(1) **Location.**

(a) No bail bond business shall be located within 100 feet of the property line of any lot, tract, or parcel of land within the city which is zoned for residential use, or zoned AG and used for residential purposes.

(b) No bail bonds business shall be located within 600 feet of the property line of any school or public park.

(2) **Measuring Distance.** For the purpose of this section, the distance shall be measured in a straight line, without regard to intervening structures, objects or city limits, from the closest exterior wall of the structure in which the bail bonds business is located to the property line of the zone district, school, or park.

Sec. 21-5222. Borrow Pits

The following provisions apply to borrow pits:

(1) The applicant shall be responsible for securing all other permits or approvals required by any other governmental agency that may have jurisdiction over the proposed use.

(2) It shall be unlawful for any person, firm, or corporation to process, crush, blast, or similarly treat earth materials on any approved borrow pit site.

(3) In addition to the standards specified in this section and this code, the proposed use shall be evaluated using the applicable standards that the state or federal government use to evaluate a permit request for the specific use. Additionally, all annual or other reports required by another governmental agency may be required to be simultaneously submitted to the city.

(4) **Exempted Activities.** The following borrowing and hauling of earth material may be done without obtaining a conditional use permit from the city:

(a) Minor projects that have cuts or fills each of which is less than five feet in vertical depth at its deepest point measured from the existing ground surface, which include all of the following:

(i) Less than 50-cubic yards of earth material, or

(ii) The removal of less than 10,000-square feet of vegetation.

(b) Minimum excavation required in connection with a building or other structure authorized by a valid building permit.

(c) Grading work being done pursuant to an approved grading plan in conjunction with an approved recorded plat or overlot grading plan being done on the same property.

(d) Trenching incidental to the construction and installation of approved underground pipeline, septic tank, disposal lines, electrical or communication facilities, and drilling or excavation for approved wells or fence posts.

(e) Grading or excavation in accordance with plans incorporated in an approved conditional use permit.

(f) Maintenance and cleaning of ditches, lakes, ponds, and water storage reservoirs.

Sec. 21-5224. Child Care Facilities

The following provisions apply to all child care facilities:

(1) All child care facilities shall be licensed and operated in conformance with all applicable federal and state regulations.

(2) At least 50-square feet of floor space shall be set aside for school purposes for each child, and at least 200-square feet of outdoor, fenced play area shall be provided for each child. These space requirements apply to both principal and accessory use childcare facilities.

(3) An off-street vehicular loading area or driveway shall be provided for the purpose of loading and unloading children.

Sec. 21-5226. Community Gardens

(1) **General Standards.**

(a) All community gardens shall have on-site irrigation.

(b) The growing and/or cultivation of marijuana, for any purpose, is prohibited.

(c) The keeping of animals is prohibited.

(d) No community garden shall be permitted on any property on which a single-family dwelling, either attached or detached, exists.

(e) Off-street parking, if any, shall include a dust-free surface approved by the city engineer.

(f) Tools and equipment must be stored in sheds. Hoop houses and green houses shall not be used to store tools or equipment.

(g) All compost materials shall be kept in an enclosure that limits the negative impacts to adjacent properties.

(2) **Sign Standards.**

(a) Identification signs shall be monument type and shall not exceed 20 square feet in area or 6 feet in height. Each community garden shall be limited to one identification sign per street frontage that is setback a minimum of 10 feet.

(b) Each community garden shall be allowed one entrance sign per entrance that is intended to communicate garden information, rules, regulations, or policies. Entrance signs shall not exceed 15-square

feet in area or 6 feet in height. Entrance signs shall be setback a minimum of 10 feet.

(c) Signage to communicate and/or distinguish specific crops or garden orientation shall be limited to 3 square feet and shall not require a permit from the Planning Division.

(3) **Accessory Structures Limited.** The following accessory structures may be located on property being used as a community garden: sheds, hoop houses, green houses, fences, compost enclosures, and vertical growing structures. All other accessory structures are prohibited.

(4) **Accessory Structure Standards**. Unless a different standard is specified in this section, all accessory structures must comply with the general standards of this code.

(a) No accessory structure shall exceed 15 feet in height.

(b) No more than 3 sheds shall be permitted.

(c) No more than a combined total of 3 hoop houses and/or green houses shall be permitted and the cumulative square footage of all such hoop houses and green houses shall not exceed ten (10) percent of the lot area.

(d) Hoop houses, green houses, and sheds shall be set back ten (10) feet from the front property line, five (5) feet from the side and rear property lines, and ten (10) feet from any property line adjacent to a street.

(e) No more than one (1) compost enclosure shall be permitted on any property that is one acre or less in size. No more than two (2) compost enclosures shall be permitted on any property that is more than one acre in size. Compost enclosures shall be set back ten (10) feet from all property lines and shall not exceed six feet in height. Compost enclosures may consist of multiple sections.

(5) **Fences.**

(a) Electric and barbed wire fences are prohibited.

(b) To the maximum extent feasible, fences shall be compatible in appearance and placement with the fences in the area.

(c) Height and style:

(i) Along the right-of-way, fences shall be open style, as that term is used in section 21-7730, and shall not exceed 42 inches in height.

(ii) Portions not along the right-of-way shall comply with the fence standards of the applicable underlying zone district.

(d) Setbacks:

(i) Residential. Fences along the right-of-way shall be set back a minimum of 30 inches from the property line. Fences that are not along the right-of-way shall comply with the general setback requirements for fences in residential zone districts.

(ii) Non-residential. Fences along the right-of-way shall be set back a minimum of 5 feet from the property line. Fences that are not along the right-of-way shall comply with the general setback requirements for fences in the applicable underlying zone districts.

Section added by Ord. 1887, July 2012

Sec. 21-5228. Doggie Day Care Facilities

(1) **Indoor Use.** Except any outdoor play area, all services provided by a doggie day-care facility shall be conducted within a completely enclosed, soundproof building.

(2) **Design.** All doggie day-care facilities shall be designed and constructed in a manner that minimizes any emission of odor offensive to persons owning, occupying or patronizing properties adjacent to such facilities.

(3) **Fencing.** The premises or portion of the premises upon which the outdoor play area is located shall be enclosed with a fence constructed to a height and of materials sufficient to be reasonably certain of confining the animals placed therein.

(4) **Noise.** Structures and fences shall be constructed of such materials and be of sufficient quality to minimize the possibility of animals creating a nuisance by barking or otherwise creating noise loud enough to disturb neighbors.

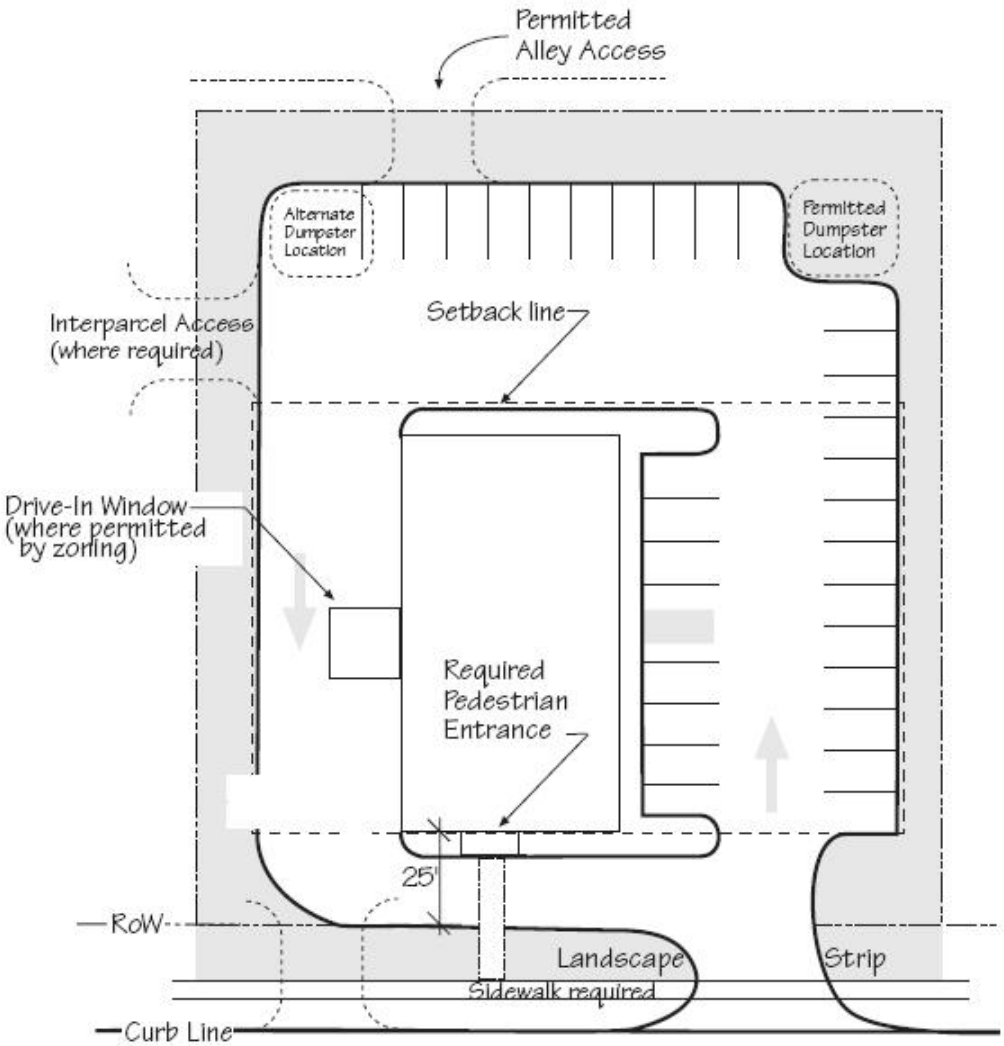
Sec. 21-5230. Drive-Thru, Drive-In, and Drive-Up Uses

(1) **Stacking.** Sufficient stacking areas for vehicles shall be provided. Refer to section 21-7236 (Stacking Requirements).

(2) **Aisle Width.** All aisles shall be a minimum of 12-feet wide.

(3) **Pedestrian Walkways Restricted.** Pedestrian walkways shall only intersect drive-thru, drive-in, or drive-up aisles when there is no other reasonable alternative. In such event, walkways shall have clear visibility and shall be identified by special raised or patterned paving or other treatment.

Figure V-2. Preferred Site Layout for Drive-Thru, Drive-In, and Drive-Up Uses



(4) **Screening.** Landscaping, screen walls, berms, placement of the drive aisle, or other site design techniques shall be used to screen cars waiting in the drive-thru, drive-in, or drive-up aisles from the public right-of-way and shall be used to minimize the visual impact of drive-thru, drive-in, or drive-up aisles, menu boards, and directional signs. The entire drive-thru area must be landscaped or bermed with a minimum 36-inch high berm or

wall to screen the drive-up facility from view from adjacent streets. Where a 36-inch high berm or wall may not be practical and landscaping can accomplish the desired intent, the berm may be reduced or deleted. Sight-distance triangles shall be maintained.

(5) **Alcoholic Beverages.** No alcoholic beverages may be sold at drive-up or drive-through windows.

(6) **Architecture.** Drive-thru, drive-in, or drive-up uses within an integrated shopping center shall have an architectural style consistent with the theme established in the center. The architecture of any drive-thru, drive-in, or drive-up use shall be compatible with and have minimal adverse impact on the use of surrounding properties.

(7) **Access.** No drive-thru, drive-in, or drive-up aisle shall exit directly onto, or gain direct access from a public right-of-way, except when approved by the city engineer.

Sec. 21-5232. Educational Facilities

(1) **Setback.** All structures and buildings shall be set back at least 50 feet from side lot lines and 100 feet from front property lines. If loading and parking space provided is not in front of the building, the front setback area shall be landscaped and used for no other purpose.

(2) **Drainage and Access**. All educational facilities shall comply with the drainage and access standards of the city.

Sec. 21-5234. Electric Substations and Gas Regulator Stations

For each electric substation and gas regulator stations where transformers or piping are exposed, the following requirements apply:

(1) **Screening.** A wall or fence, a minimum of six feet in height, shall enclose the area. In certain locations, this wall or fence may be required to be a screened type of fence with columns.

(2) **Setback Minimums:**

(a) Front: 30 feet.

(b) Side: 25 feet.

(c) Rear: 25 feet.

Sec. 21-5235. Fuel Sales

(1) **General Standards.** All businesses where fuel sales occur shall comply with the following standards:

(a) No more than two may be located within 660 feet of an arterial/arterial intersection;

(b) Street access shall conform to the requirements imposed by the engineering division; and

(c) Vehicle access and circulation shall be designed so that the impacts to adjacent residential uses or properties from the movement of vehicles or the lights from vehicles are minimized.

(2) **Pump Islands.**

(a) A maximum of 2 pump islands shall be permitted on a 12,000-square foot lot. One pump island may be added for each additional 2,000-square feet of lot area, provided that the total number of pump islands shall not exceed 4 per lot.

(b) The addition of 1 pump island may be administratively approved if the director finds:

(i) The on-site circulation will not be negatively impacted;

(ii) The off-site circulation will not be negatively impacted;

(iii) Access to the property will not be negatively impacted;

(iii) Appropriate screening and/or landscaping will mitigate the visibility of the pump island; and

(iv) The total area for fuel pumps is not increased.

(3) **Building and Equipment Setbacks and Buffers.**

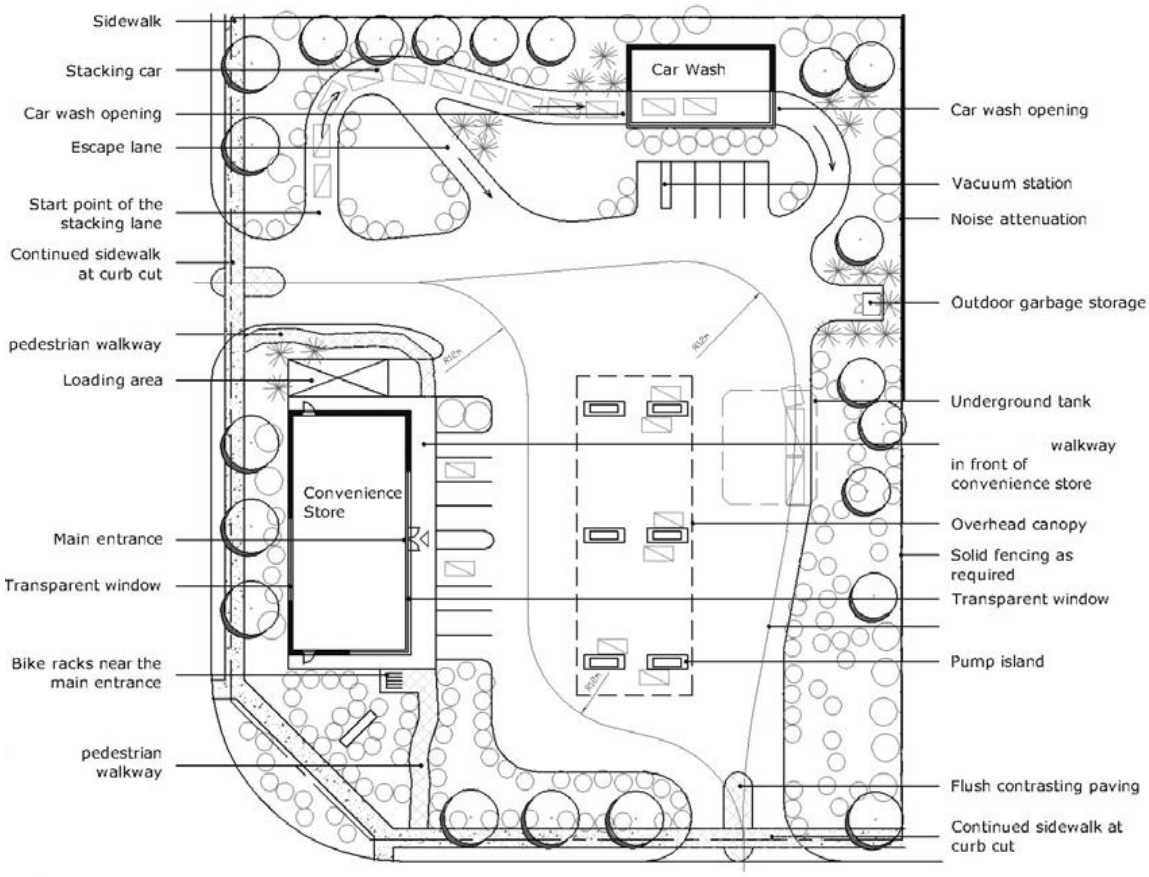
(a) The principal building and any accessory structures, except for fuel pumps, pump islands, detached canopies, and similar equipment, shall be set back a minimum of 15 feet from any street right-of-way and a minimum of 20 feet from all property lines abutting a residential zoning district.

(b) When the facility abuts a residential district, use, or property, a minimum 20-foot wide landscape buffer shall be provided along the shared boundary in accordance with section 21-7516 (Landscaping Buffers).

(c) Fuel pumps, pump islands, detached canopies, and similar equipment shall be set back a minimum of 40 feet from all street rights-of-way and from all property lines abutting a residential zoning district.

(d) Compressed air and vacuum connections shall be setback from public rights-of-way a minimum distance equal to the minimum landscape buffer. They shall be set back from any residential zoned property a minimum of 40 feet.

Figure V-3. Preferred Convenience Store Site Layout



(4) **Supplemental Development and Design Standards.** In addition to any other development or design standard set forth in article VII (Design Standards), the following standards shall apply:

(a) Any fuel pump canopy or accessory structures shall utilize the same architectural treatment as the primary or principal building. The material used on the underside of the canopy shall not be highly reflective.

(b) A maximum of 25 percent of each canopy fascia area visible from any public street may be internally illuminated, and no portion of any fascia may be externally illuminated. Each side of a fuel pump canopy shall be considered a separate fascia area.

(c) Where the use abuts or is across the street from a residential zoning district, sight lighting or other lights illuminating the fuel pumps or other areas of the site shall be extinguished at the close of business.

(5) **Accessory Car Wash Bays.** A fully-enclosed, single-bay car wash is allowed as an accessory use, subject to the following development and design standards:

(a) To the maximum extent possible, the entrance to the car wash bay shall be sited so as not to be visible from the lot's primary street frontage;

(b) The car wash bay shall be limited in size to a single vehicle;

(c) The car wash bay shall be located outside of the 20 foot landscape buffer required by paragraph (3)(b) of this section;

(d) In addition to any other off-street parking requirements or vehicles stacking requirements, the car wash shall have its own stacking requirements, found in section 21-7236 (Stacking Requirements);

(e) Where the use abuts a residential zoning district, the hours of operation for the car wash shall be limited to between 7 a.m. and 9 p.m.

Section moved by Ord. 1854, April 2011
Paragraph (2) amended by Ord. 1887, July 2012

Sec. 21-5236. Greenhouses/Nurseries, Including Retail Sales of Related Products

(1) **Agricultural District.** Off-site delivery of plant materials and the use and storage of all vehicles and equipment necessary for those activities are permitted.

(2) **Display and Storage.** Merchandise, landscaping materials, and equipment shall be displayed or stored within an enclosed building or in an area of the property that has been fenced or landscaped to conceal the area from any public right-of-way. Neither storage nor display shall occur within 25 feet of public right-of-way or occupy required off-street parking spaces.

(3) **Vehicle Maintenance**. Any repair or servicing of vehicles or equipment used in the operation of the business shall occur within an enclosed building. Repair and servicing shall be limited to normal maintenance and shall not include body repair or modification.

(4) **Growing Areas.** Areas for the growing of plants and nursery stock may be permitted in greenhouses or in open areas as designated by the applicant.

(5) **Outdoor Storage.** Outdoor storage shall meet all requirements for outdoor storage established for the underlying zoning district. The type and location of any materials to be stored on any site shall be determined at the time of development plan approval. Any materials approved for outdoor storage shall not cause a hazard or nuisance to the health, safety, or welfare of humans or animals.

Sec. 21-5238. Group Homes

(1) **General Standards.** For purposes of this land development code, group homes are classified as type A and type B. Each type is defined in article XI. Both types of group homes must comply with the following:

(a) Group homes shall be licensed and operated in conformance with all applicable governmental regulations. If a license is pending, the city may issue a permit but such permit shall not take effect until the applicable license is obtained.

(b) The proposed group home shall not adversely affect the residential character and quality of life in the particular neighborhood. However, no application for a proposed group home shall be denied solely on the basis of neighborhood opposition, where no valid and substantive evidence has been offered to show that the proposed facility would have such adverse effect.

(c) No group home shall be located closer than 750 feet from another group home.

(d) No group home shall provide housing to any individual whose tenancy would constitute a direct threat to the health or safety of any other individual or would result in substantial physical danger to the property of others.

(e) No group home shall provide housing to more than one person required to register as a sex offender pursuant to state law.

(2) **Type B Group Homes.** In addition to the foregoing general standards, the following provisions apply to all type B group homes:

(a) A conditional use permit may be granted for the term of the group home's license, or for such shorter period as the city deems appropriate under the circumstances of the individual case.

(b) At the expiration of its term, a conditional use permit shall automatically renew under the same conditions, including duration, as the original permit, unless the city or the group home's licensing agency has received written complaints concerning its operation. If any such complaint has been received, the application for renewal must be heard by the planning commission and city council under the same requirements for a new conditional use application.

(c) Where the use is discontinued for a period of 180 days, the use shall be considered to be abandoned and may be reinstated only after obtaining a new conditional use approval.

(3) **Reasonable Accommodations.**

(a) The Federal Fair Housing Act requires that local governments be prepared to make reasonable accommodations in order to permit housing for certain protected groups to occur in residential areas. In response to a written application identifying the type of housing being provided and the portions of the Fair Housing Act that require that reasonable accommodations be made for such housing, the director is authorized to take any of the following actions in order to provide reasonable accommodations without the need of a rezoning or variance process:

(i) Modify any spacing, building setback, height, lot coverage by no more than 20 percent;

(ii) Modify the limits on the number of non-related occupants allowed in the principal building by no more than 20 percent;

(iii) Reduce the 750-foot spacing requirement; or

(iv) Reduce any off-street parking requirement by one space.

(b) The director may approve a type of reasonable accommodation different from that requested by the applicant if the director concludes that a different form of accommodation would satisfy the requirements of the Fair Housing Act with fewer impacts on adjacent areas. The decision of the director shall be accompanied by written findings of fact as to the applicability of the Fair Housing Act, the need for reasonable accommodations, and the authority for

any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a conditional use or rezoning process.

Sec. 21-5240. Home Occupations

(1) **Licensure.** A city business license shall be required for all home occupations.

(2) **Standards.** Home occupations shall comply with the following standards:

(a) Home occupations shall be clearly incidental and accessory to the use of the residence as a dwelling;

(b) No more than eight patron visits per day shall be permitted and all visits shall occur between the hours of 7 a.m. and 7 p.m.;

(c) Delivery to or pick-up from the premises, except postal and small parcel, is prohibited. No more than four small parcel deliveries shall be permitted each day;

(d) No persons, other than residents of the household, shall be permitted to perform any work at the residence in conjunction with the home occupation; and

(e) Signs associated with home occupations shall be regulated in section 21-8300 (Sign Schedule).

(3) **Prohibited Activities, Equipment, and Materials.** The following uses and activities are prohibited as part of any home occupation:

(a) Use of equipment or machinery that is not customarily incidental to domestic use (e.g., cement mixers, tractors, and paint booths);

(b) Equipment, machinery, or processes that create noise, smoke, glare, fumes, odor, or vibration (e.g., assembly requiring power tools, carpentry) offensive to a reasonable person at the property line;

(c) Uses that involve activities or use of equipment or materials on more than an intermittent basis so as to change the fire safety or occupancy classification of the premises (e.g., welding);

(d) Activities that cause electromagnetic (e.g., radio, television, etc.) interference to surrounding properties;

(e) Use or storage of chemicals or processes that are not customarily associated with domestic use; and

(f) Repair of motor vehicles.

(4) **Exterior Evidence of Use Prohibited.** To ensure that dwellings for which home occupation approvals have been issued remain compatible with surrounding residential use, the following regulations shall apply:

(a) The home occupation shall be conducted entirely within the principal dwelling;

(b) Incidental storage in a garage or any activities associated with the home occupation shall not displace any required parking in a currently usable garage;

(c) The home shall not require any alteration not customarily associated with residential use. Home occupation activities shall not be visible from the public rights-of-way or neighboring properties;

(d) Outdoor storage or storage in any accessory building or structure is prohibited;

(e) No off-site sign shall be placed as to denote the location of the home occupation;

(f) No home occupation shall produce quantities or types of refuse not customarily associated with a residential use;

(g) The entrance to the space devoted to such use shall be from within the dwelling, unless otherwise required by state law or regulation; and

(h) The use shall not change the character of the dwelling or create outside the dwelling any external evidence, either on the property or on the street, of the operation of the home occupation.

(5) **Firearms Sales.**

(a) No firearms, ammunition, or accessories shall be sold or offered for sale on the premises.

(b) The exchange of firearms shall only be conducted at gun shows.

(c) No stock in trade shall be kept on the premises, and no services shall be conducted on the premises.

(6) **Vehicles, Parking, and Traffic.** No vehicle shall be allowed in conjunction with a home occupation that has been manufactured or altered to provide mobile services. Examples of vehicles that have been

manufactured or altered to provide mobile services include, but are not limited to, ice cream trucks, catering trucks, or tow trucks. Parking needs and traffic volumes generated by the home occupation shall not exceed that typically generated by a residential use.

Sec. 21-5241. Impound Yard

(1) **Fence and Screening Requirements**. An impound yard must be completely enclosed by a screen style fence that is eight feet in height.

(2) **Vehicle Parts**. Vehicle parts shall not be taken or sold from vehicles stored in an impound yard, nor shall any vehicle parts be stored within an impound yard.

(3) **Temporary Storage**. Except as required by court order or requested by law enforcement conducting an official investigation, no vehicle may be stored in an impound yard in excess of 90 days.

(4) **Rows.** Vehicles stored in an impound yard must be parked neatly in rows.

Section added by Ord. 1785; June 2010

Sec. 21-5242. Kennels

(1) **Health and Sanitation.** All kennels shall be maintained in a clean and sanitary condition at all times in order to prevent health hazards, odors, and other nuisances. Kennels shall be operated in accordance with the following standards:

(a) Excreta shall be removed from enclosures, pens, and runs as often as necessary to reduce disease hazards and odors and to prevent its accumulation from constituting a nuisance. At a minimum, daily removal of excreta is required. All premises shall be kept clean and in good repair, and all animal and food wastes shall be handled and disposed of in a sanitary manner.

(b) Adequate shelter from the elements shall be provided. Adequate shelter includes, but is not limited to, proper ventilation, heating, cooling, and lighting.

(c) Lavatory and washroom facilities sufficient for use by all kennel caretakers and employees shall be provided.

(d) Drainage shall be constructed to protect adjacent bodies of water from pollution.

(e) The premises shall be maintained so as to meet Tri-County District Health Department standards and not constitute a nuisance.

(f) All kennels shall contain an isolation ward for animals which are sick or diseased, sufficiently removed so as not to endanger the health of other animals.

(2) **Licensure.** All kennels shall be licensed and operated in conformance with all applicable governmental regulations.

(3) **Traffic.** All kennel traffic shall be diverted from residential areas to the maximum extend feasible.

(4) **Dust.** Adequate provision shall be made to prevent dust.

(5) **Structures, Space Requirements, and Setbacks.**

(a) All places where the animals are kept including structures, pens, yards, and runs shall be located a minimum distance of 100 feet or a distance equal to 1-1/2 times the width of the parcel of land occupied by the shelter, whichever is the lesser of the two distances from any residence or primary structure located on parcels of land adjoining the parcel. New construction on adjoining parcels of land will not affect existing structures, pens, runs, yards, and other places where animals are kept.

(b) Dog kennels shall be situated on not less than a five-acre parcel of land.

(c) All shelters shall be of sufficient height and width to permit each animal or animals to stand up and turn around when fully grown. If cages are used, they shall be of sufficient height and width to permit each animal or animals to stand up and turn around when fully grown, but minimum cage sizes shall be as follows:

(i) Small breeds and cats: 21-inches wide, 29-inches deep, and 24-inches high.

(ii) Medium breeds: 29-inches wide, 32-inches deep, and 33-inches high.

(iii) Large breeds: 29-inches wide, 45-inches deep, and 33-inches high.

(6) **Containment and Noise.** Fencing and landscaping should be used to minimize noise, glare, and other nuisances. The portion of the premises upon which a kennel is located shall be enclosed with a fence constructed to a height and of materials sufficient to be reasonably certain of confining

the animals placed therein, or the animals shall be restrained by other means consistent with the size, weight, and abilities of the animals restrained to be reasonably certain to prevent them from being able to escape and run at large. Animals running at large will be prevented. Structures and fences will be constructed of such materials and quality to minimize the possibility of animals creating a nuisance by barking or other noise loud enough to disturb neighbors.

(7) **Existing Kennels.** Any kennel licensed and in operation as of the date of adoption of this land development code shall be exempt from provision (5) of this section. Such pre-existing uses shall be considered legal non-conforming uses and shall be governed by section 21-5520.

Sec. 21-5244. Landfill Disposal Sites

All disposal facilities shall obtain from the city a conditional use permit for a solid waste disposal facility. The land owner and the operator of the facility shall each be jointly and severally responsible for complying with the following requirements:

(1) The operator of the facility shall demonstrate the nature of materials accepted at the facility.

(2) The facility may be filled only with the knowledge and consent of the land owner for the primary purpose of leveling, raising, or otherwise preparing land for construction or other permitted land use that requires a leveled, raised, or prepared surface.

(3) The filling operation, including compacting, leveling of all disposed material, covering with sufficient clean soil, and re-vegetating and/or commencing of road or building construction will be completed within 12 months of initial disposal activity unless extended for good cause by the city. The filling operation must be compatible with surface and subsurface uses and not cause any subsidence or other problems with surface and subsurface uses.

(4) Any filling operation that qualifies as a disposal facility must satisfy all other federal, state and local regulations and requirements including those pertaining to solid waste disposal, floodplains and floodways, wetlands' preservation, soil quality protection, water quality protection, air quality protection, and dust and erosion control.

(5) Only inert materials shall be placed in an inert material disposal facility.

(6) No material shall be placed in ground water. All material shall be placed in a manner and location to not adversely affect ground water.

(7) Financial assurance in a form acceptable to the city for closure and post-closure care is required of all disposal facilities.

(8) An annual report shall be submitted by the facility to the city by May 1 of each year. The report shall state the amount of materials received at the facility, processed, disposed of on-site, and shipped off-site for the preceding calendar year.

(9) The facility shall maintain all-weather access roads to those areas of active operation and as necessary to meet the fire control plan.

(10) The facility shall collect litter in order to avoid a fire hazard or a nuisance and control the growth of vegetation to minimize potential fuel sources.

(11) Adequate fencing, natural barriers or other security measures to preclude public entry shall extend around the entire perimeter of the facility and shall include a lockable gate or gates.

(12) Prominent signs shall be posted in public view at the entrance to the facility with the name of the facility, the hours which the facility is open for public use, a listing of the wastes accepted at the facility, and a phone number for a 24-hour emergency contact. A copy of the conditional use permit shall be available for inspection at the site.

(13) The facility shall immediately notify the city, Tri-County Health Department, the fire district having jurisdiction, and the Colorado Department of Public Health and Environment in the event of a fire or other emergency. Within two weeks of this notification, the facility shall submit a report on the emergency to each such entity. This report shall describe the origins of the emergency, the actions that have been taken, actions that are currently being taken or are planned, results or anticipated results of these actions, and an approximate date of resolution of the problems generated by the emergency.

Sec. 21-5246. Livestock and Horses

(1) **General Standards.**

(a) Allowed only on AG and Public zoned lots exceeding 12,000-square feet.

(b) One horse/large animal allowed for the first 12,000-square feet of net lot area (lot area without a structure upon it); one additional horse/large animal for each additional 6,000-square feet of net lot area.

(c) Additional regulations regarding number of animals allowed shall be made by the director, using the space requirements for horses as a guide.

Sec. 21-5248. Lodging Establishments

(1) **Size Requirements.** Lodging establishments located within one mile of E-470 shall contain a minimum of 150-guest lodging rooms.

(2) **Length of Stay.** The length of stay at any lodging establishment shall not exceed 30 days within any 90-day period, except that in the case of extended stay establishments the length of stay shall not exceed 180 consecutive days.

(3) **Kitchens Restricted.** In-room kitchen facilities shall be allowed only in extended stay or lodging "suite" establishments.

Sec. 21-5249. Medical Marijuana Business and Primary Caregivers

(1) **Location.** No medical marijuana business or primary caregiver shall be located within 1,000 feet of the following:

(a) The exterior boundary of any public zone district;

(b) The exterior boundary of any residential zone district;

(c) The exterior boundary of any existing or occupied mobile home;

(d) The exterior boundary of any lot on which there is located a single-family or multi-family residence, whether located within or outside of the city;

(e) Any church or religious institution;

(f) Any educational institution or school, either public or private;

(g) Any licensed child care facility;

(h) Any alcohol or drug rehabilitation facility;

(i) Any group home for the developmentally disabled;

(j) Any public community center, park, fairground, or recreation center, or any publicly owned or maintained building open for use to the general public;

(k) Any other medical marijuana business whether such business is located within or outside of the city; or

(l) Any halfway house or correctional facility.

(2) **Indoor Use.** All business related to, or consumption of, medical marijuana shall be conducted indoors, and all building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent a view into the interior; and for new construction, the building shall be constructed so as to prevent any possibility of viewing the interior from the exterior of such structure.

Section amended by Ord. 1897, July 2012

Sec. 21-5250. Mini Storage and Warehouse

(1) **Indoor Use.** Unless allowed by zoning, all storage shall occur within an enclosed building or buildings.

(2) **Design Standards.**

(a) Architectural style shall be compatible with surrounding properties. A minimum of 4:12 pitched roofs are required.

(b) Doors to individual units shall be located internal to the development.

(c) Building exteriors shall not be corrugated metal or similar surface, but shall be of finished quality. Metal containers are prohibited.

(d) Colors shall complement the natural characteristics of the site, and shall not be used to attract attention to the facility. (i.e., no red roofs, orange doors, etc.)

(e) All mini-storage facilities shall provide a minimum 24-foot wide drive aisle between all buildings and adjacent to all building walls with storage compartment access doors.

(f) All site fencing along public right-of-way shall consist of wrought iron or similar types of decorative fencing materials. Chain link fences are prohibited.

(3) **Vehicles and Outdoor Storage.** Rental trucks, trailers, and outdoor storage areas, if allowed, shall be completely screened by topographic features, landscaping, and fencing.

(4) **Hazardous Materials.** Storage of hazardous materials shall be prohibited.

(5) **Resident Caretaker.** A mini-storage facility shall have no less than one on-site manager/caretaker or more than one dwelling unit unless a use-by-permit has been issued by the city. Except where a use-by-permit has

been issued, all mini-storage facilities shall have an on-site, resident manager/caretaker and shall provide such resident manager/caretaker with the following:

(a) A dwelling unit which shall be incorporated into and occupy space on the premises of the mini-storage facility.

(b) One off-street parking space for the exclusive use of the resident manager/caretaker.

(c) A single landscaped private recreation area, with a minimum area of 750-square feet, shall be provided within the mini-storage facility for the exclusive use of the resident manager/caretaker.

(6) **Hours of Operation.** Hours of public access to mini-storage units abutting one or more residential zoning districts shall be restricted to the period from 6 a.m. to 10 p.m.

Sec. 21-5252. Outdoor Display

Any outdoor display must be done in conjunction with the business being conducted on the premises and shall comply with the following regulations:

(1) The items displayed outside shall be of the same type that are lawfully displayed and sold inside the building on the premises.

(2) The aggregate display area shall not exceed 50 percent of the linear frontage of the store front.

(3) Items shall not project more than 20 feet from the store front.

(4) No item, or any portion thereof, shall be displayed on public property.

(5) Items shall be displayed only during the hours that the business conducted inside the building on the premises is open for business.

(6) No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety, or welfare or causes a public nuisance.

Sec. 21-5254. Outdoor Storage

(1) **Business Related.** All outdoor storage shall be directly related to the business conducted on that property.

(2) **Heating Fuels**. Outdoor storage of heating fuels may be permitted in all zones, provided such storage is directly connected to heating devices for the purpose of providing fuel for heating the building of which such heating device is a part.

(3) **Manure.** No manure shall be stored within 100 feet of any property line.

(4) **Principal Structures.** No outdoor storage shall occur on a lot that does not contain a building, unless said outdoor storage is used by an adjacent property owner or lessee and is directly related to such adjacent property owner's or lessee's business.

(5) **Agriculturally Zoned Lots.** Outdoor storage, compliant with these regulations, shall be permitted only when the stored items relate directly to the principal agricultural use. Determination of which items are directly related to the principal use shall be made by the director.

(6) **Location.** Outdoor storage shall be limited to the rear and side yards of the property. Required parking and landscape treatment areas can never be used for outdoor storage.

(7) **Stacking and Screening Requirements.** All outdoor storage areas shall be enclosed by a fence or wall adequate to conceal such areas from adjacent non-industrial property and public right-of-way. Outdoor storage can be stacked to eight feet or the height of the screening fence, whichever is less, with the following exceptions and restrictions:

(a) I-1 and I-2 Zoning Districts. In addition to not being visible from adjacent non-industrial property and public right-of-way, the outdoor storage shall not be visible to a pedestrian at ground level looking at the storage area from a public facility such as a city park, trail, and open space, or from the first floor of any building not on the subject property to the maximum extent possible. In order to confirm compliance, the city may request additional information as necessary, such as a grading plan or topographic survey, or a plan showing adjacent building footprints.

(b) I-3 Zoning Districts. In addition to not being visible from adjacent non-industrial property and public right-of-way, the outdoor storage shall not be visible to a pedestrian at ground level looking at the storage area from a public facility such as a city park, trail, and open space, or from the first floor of any building not on the subject property to the maximum extent possible. The exception to the eight foot maximum height limit is the storage of bundled lumber, pallets, or shipping containers only, which may be stacked to a height of 20 feet if done in a manner that ensures safety. Any items

stacked higher than the fence must be placed in such a manner that the items cannot fall and land on or outside of the fence.

(c) Fences and Gates. Fences used for screening outdoor storage shall be masonry, brick, decorative rock, stone, textured concrete, stucco, or wood and erected in accordance with the building permit issued by the city. Gates must be opaque, however a gate may be a different material than what would be allowed for the fence. All gates must meet the required setbacks in section 21-7732 (Fences).

(8) **Site Plans.** Site plans for outdoor storage shall be provided to the city, when required, and shall depict the following:

(a) Exact location of proposed outdoor storage area;

(b) Dimensions and locations of aisles and circulation paths in the outdoor storage area for general and emergency access;

(c) Square feet of proposed outdoor storage area;

(d) Location of the fence, including pedestrian and vehicular gates;

(e) Height and type of fence proposed, including an elevation of the fence;

(f) Description of the material proposed to be stored;

(g) Height of the material and/or proposed stacking height of the material proposed to be stored; and

(h) Description of the proposed surface on which material will be stored, and of the circulation and emergency access aisles.

(9) **Outdoor Storage in the I-1 Zoning District.** In addition to the foregoing paragraphs, the following special provisions apply to outdoor storage in I-1 districts:

(a) Limited availability. No outdoor storage shall be permitted unless the property is located in the following areas:

(i) Rocky Mountain Industrial Park. The area located within the following boundaries: Bordered on the south by East 56th Avenue, on the east by Monaco Street, on the west by Holly Street, and on the north by a line constituting an extension of East 59th Avenue.

(ii) Stapleton Industrial Park. The area located within the following boundaries: Bordered on the south by East 48th Avenue, on the east by Quebec Street, on the west by Ivy Street, and the north by Sand Creek.

(b) The board of adjustment may not consider variances or exceptions to the location requirements stated above.

(c) Review Criteria. No application for outdoor storage as a use-by-permit in the I-1 zone district shall be approved unless the board of adjustment specifically finds the following criteria:

(i) Outdoor storage at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they presently exist or as they may in the future be developed;

(ii) The characteristics of the site are suitable for outdoor storage as a use-by-permit considering the size, shape, location, topography, and existence of improvements and natural features; and

(iii) Sufficient landscaping and screening will be utilized to insure harmony with adjacent uses and public rights-of-way.

(d) The area of outdoor storage shall be limited based upon the characteristics of the site. Those relevant limiting characteristics include, but are not limited to the following:

(i) Size of buildings;

(ii) Type of material being stored;

(iii) Vehicle circulation patterns;

(iv) Loading docks;

(v) Landscaping areas; and

(vi) Emergency vehicle access.

(e) Pre-Existing Use.

(i) Any and all outdoor storage existing in the I-1 zoning district which is not expressly permitted as a use-by-permit, whether

or not said outdoor storage in said I-1 zoning district existed prior to the passage of this section, is hereby declared to be illegal and in violation of this land development code.

(ii) Previous conditional use approvals. Any I-1 zoned property that had previously obtained conditional use approval for outdoor storage within the Rocky Mountain Industrial Park shall continue to operate legally under that conditional use permit until such time as the business is sold, transferred, or ceases to operate. Any new owner, tenant, or lessee will be required to obtain a use-by-permit for outdoor storage in compliance with this section.

Paragraphs (4) and (7) amended by Ord. 1785, June 2010

Sec. 21-5256. Recycling Facilities/Material Resource Recovery Facilities

(1) **Small Recycling Collection Areas.** Small recycling collection areas located within multifamily developments, commercial, or industrial zoning districts shall comply with the following standards. The facility shall be no larger than 300-square feet and shall occupy no more than 5 parking spaces, excluding space that will be periodically needed for removal of materials or exchange of containers, and 1 parking space for an attendant, which shall be located outside the facility.

(a) The facility shall be set back at least ten feet from any public right-of-way and shall be located so that pedestrian or vehicular circulation is not obstructed.

(b) The facility shall accept only glass, aluminum, plastic containers, papers, and similar items.

(c) The facility shall use no power-driven processing equipment, except for reverse-vending machines.

(d) The facility shall use containers that are constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, and shall be of a capacity sufficient to accommodate materials collected within an allotted collection schedule.

(e) All recyclable materials shall be stored in the unit and shall not be left outside of the unit when unattended.

(f) The facility shall be maintained in a clean and sanitary manner, free of litter and any other undesirable materials.

(g) With the exception of multi-family developments, facilities shall not be located within 150 feet, excluding right-of-way, of any residential zoning district or any parcel identified as residential in the comprehensive plan.

(h) Containers shall be clearly marked to identify the type of material, which may be deposited. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation and display a notice stating that no material shall be left outside the recycling containers.

(i) The facility shall be placed on asphalt or concrete and shall not impact any landscaping or landscaped areas.

(j) The facility shall be completely screened by an opaque fence or wall.

(2) **Large Recycling Collection Area**. A recycling collection facility which is larger than 300-square feet or on a separate parcel not accessory to a primary use and which has a permanent structure shall be subject to the following provisions:

(a) The facility shall not be adjacent to a parcel zoned or planned for residential use on the comprehensive plan.

(b) Structure setbacks shall comply with the standards of the zoning district in which the facility is located.

(c) All exterior storage of materials shall be in sturdy, rust-proof containers that are covered, secured, and maintained in good condition, and of sufficient capacity to accommodate collected materials. Outdoor storage shall comply with all standards set forth in section 21-5254.

(d) The site shall be clean, sanitary, and free of litter and any other undesirable materials and shall be cleaned regularly of loose debris. Containers shall be clearly marked to identify the type of material that may be deposited, and the facility shall display a notice stating that no material shall be left outside the recycling containers.

(e) Space shall be provided on-site for a minimum of five vehicles to circulate and to deposit recyclable materials and for employees and commercial vehicle parking.

(f) All containers provided for after-hours donation of recyclable materials shall be at least 100 feet from any residential use or zone district.

(g) The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation. Identification, informational, and directional signs shall meet the sign standards of the zone district.

(h) Light processing facilities are limited to bailing, briquetting, crushing, compacting, grinding, shredding, and sorting of source-separated recyclable materials and repairing of reusable materials.

(i) The site shall be secured from unauthorized entry and removal of materials when attendants are not present.

(j) Hazardous materials, dead animals, or yard waste shall not be considered recyclable material, except as otherwise provided in the municipal code.

(3) **Material Resource Recovery Facility (MRRF).** The following additional provisions shall apply to any business classified as a material resource recovery facility by the city.

(a) Type of resource materials. The facility shall only hand source separated household recyclable materials and incoming solid waste. A MRRF shall not be conducted as a garbage transfer station and shall not collect, process, or sort any raw or wet garbage. Any incoming waste not recycled or recovered shall be transported to an authorized landfill within 48 hours.

(b) Sorting. Materials shall be sorted only within an entirely enclosed building. Delivery doors shall be located on building walls away from potential or existing noise sensitive land uses and away from public rights-of-way.

(c) Outdoor Storage. Baled, palleted, or otherwise consolidated materials stored outdoors shall be stacked no higher than eight feet and placed no closer than 25 feet to any front property line or any property line adjacent to residentially used land. Outdoor storage shall be located out of view from public rights-of-way and completely screened by a solid fence or wall and shall only be allowed in zoning districts that permit outdoor storage.

(d) Maintenance. The property owner shall undertake adequate measures to ensure that the site is free of wind blown debris at all times. The property owner shall be responsible for clean up of any wind blown debris on or off-site from incoming/outgoing vehicles or outdoor storage.

Sec. 21-5258. Refuse Transfer Facility and/or Transfer Facility

The following standards shall apply to all refuse transfer facilities:

(1) The premises shall be kept in an orderly condition.

(2) All garbage, trash, rubbish or debris shall be concealed from view from the public right-of-way

(3) Signs shall be posted to identify the ingress and egress to the refuse or transfer facility.

(4) All applicable rules and regulations of the state department of health and the tri-county district health department will be complied with.

(5) Anti-litter signs shall be posted at the cost of the operator both at the facility and along assigned haul routes to and from the facility. The operator shall be responsible for any litter problems along the haul routes.

(6) All fires shall immediately be reported to the fire department.

(7) All transportation vehicles used for refuse collection and disposal shall be covered to prevent litter.

(8) Two free community disposal days shall be provided to city residents annually.

(9) Unrestricted access shall be provided to all inspection authorities.

(10) Landscaping materials shall be installed and maintained. Landscaping plans shall be subject to approval by the city.

(11) Methane detection and control devices shall be installed in all structures where and when deemed necessary by the building official, fire district, or Tri-County Health Department.

(12) Rodent and pest control programs will be provided and maintained at all times. The operator of a refuse transfer facility shall submit to the city a written vector control plan.

(13) Unless specifically authorized, no hazardous or toxic waste substances shall be accepted. All operational personnel shall be trained in the identification and handling of hazardous and toxic waste.

(14) Any resource recovery, incineration or recycling shall be prohibited without first obtaining a conditional use permit from the city council.

Section amended by Ord. 1887; July 2012

Sec. 21-5260. Scrap Tire Facilities

The following shall apply to all scrap tire facilities:

(1) All scrap tire disposal facilities shall obtain a conditional use permit. The landowner and the operator of the facility shall each be jointly and severally responsible for complying with the requirements under this ordinance. Scrap tire recycling facilities also shall need a conditional use permit pursuant to this land development code.

(2) When applying for a conditional use permit, the operator of a scrap tire facility shall submit a plan for approval. The plan shall describe, in detail, the nature of the activity, the types and capacities of equipment that will be used, all methods of processing and storage, the means to be used to track inventory on a volume or weight basis, and the proposed method and procedures for closure.

(3) Financial assurance in a form acceptable to the city for closure and post-closure care is required of all scrap tire facilities.

(4) An annual report shall be submitted by the facility to the city by May 1 of each year. The report shall state the amount of scrap tires received at the facility, processed, disposed of on-site, and shipped off-site for the preceding calendar year.

(5) The facility shall maintain all-weather access roads to those areas of active operation and as necessary to meet the fire control plan.

(6) The operator shall be responsible for any litter problems on the property or in the adjacent right-of-way.

(7) Adequate fencing, natural barriers or other security measures to preclude public entry shall extend around the entire perimeter of the facility and shall include a lockable gate or gates.

(8) Prominent signs shall be posted in public view at the entrance to the facility with the name of the facility, the hours which the facility is open for public use, a listing of the wastes accepted at the facility, and a phone number for a 24-hour emergency contact.

(9) The operator shall maintain a working telephone at the facility.

(10) The operator of a scrap tire facility shall have a written vector control plan that shall be submitted to the city.

(11) If pesticides are used in vector control efforts, they shall be used in accordance with the Pesticide Applicator's Act, C.R.S. § 35-10-101.

(12) The operator shall submit a fire control plan to the city specifying the facility's fire lane locations and widths, the means that are assumed to be used to extinguish fires, and designation of a facility emergency coordinator. This plan shall be in accordance with local fire codes and the plan shall be written by a qualified professional and submitted to and approved by the local fire control authority.

(13) The minimum standards to be allowed for tire pile storage will be as follows:

(a) In no case shall piles of whole tires, tire bales, or tire shreds that are stored on open ground, as opposed to stored in open pits or cells, be larger than 50 feet in width and no higher than 8 feet above grade. An approved field measurement system must be employed to facilitate estimates of pile dimensions.

(b) A minimum of 50 feet shall be maintained between piles of whole, shredded, or baled tires to allow access for fire fighting equipment.

(c) A minimum distance of 50 feet of clear area is to be maintained from all property lines.

(14) The facility shall immediately notify the city, Tri-County Health Department, the fire district having jurisdiction, and the Colorado Department of Public Health and Environment in the event of a fire or other emergency. Within two weeks of this notification, the facility shall submit a report on the emergency to the each such entity. This report shall describe the origins of the emergency, the actions that have been taken, actions that are currently being taken or are planned, results or anticipated results of these actions, and an approximate date of resolution of the problems generated by the emergency.

(15) During all stages of operation, the facility shall have on site an attendant who is responsible for site activities.

(16) Only scrap tires shall be placed in a scrap tire facility.

Sec. 21-5262. Sexually Oriented Businesses

(1) **Purpose.** The standards set forth in this section are intended to promote the health, safety, and general welfare of city residents by establishing reasonable and uniform standards to prevent the deleterious location and concentration of sexually oriented businesses within the city. It is neither the intent nor the effect of this section to restrict or deny access by adults to sexually oriented entertainment or to deny access to the distributors and exhibitors of sexually oriented entertainment to their intended market.

(2) **Location.** No sexually oriented business shall be located within 1,000 feet of the following:

(a) The exterior boundary of any public zone district;

(b) The exterior boundary of any residential zone district;

(c) The exterior boundary of any existing or occupied mobile home;

(d) The exterior boundary of any lot on which there is located a single-family or multifamily residence, whether located within or outside of the city;

(e) Any church or religious institution;

(f) Any educational institution or school, either public or private;

(g) Any licensed child care facility;

(h) Any public community center, park, fairground, or recreation center, or any publicly owned or maintained building open for use to the general public; or

(i) Any other adult entertainment use whether such other adult entertainment use is located within or outside of the city.

(3) **Urban Renewal Projects.** No sexually oriented business shall be located in any area designated as an urban renewal project pursuant to state law, whether such use is located within or outside of the city.

(4) **Advertisements.** Advertisements, signs, displays, or other promotional material depicting adult entertainment uses shall not be shown or exhibited off the premises where the adult entertainment uses are conducted, in a manner visible to the public, from roadways, pedestrian sidewalks or walkways, or from other public areas.

(5) **Indoor Use.** All sexually oriented businesses shall conduct business indoors, and all building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent a view into the interior; and for new construction, the building shall be constructed so as to prevent any possibility of viewing the interior.

(6) **Priority of Use.** No sexually oriented business shall be found in violation of paragraph 2 above based upon a use or land reclassification that occurs after the city approves the sexually oriented business. An existing sexually oriented business shall be given priority over the proposed new use or land reclassification and shall be permitted to continue, so long as it is in compliance, as determined by the city, with all other applicable

conditions of its zoning, and so long as it has any such current and validly issued licenses as may be required by this land development code, or by any other applicable statute or ordinance of the city.

Sec. 21-5264. Small Wind Energy Conversion System (Windmills)

It is the intent of this section to encourage the use of small wind energy conversion systems to provide an alternative source of energy. Decorative windmills not used for this purpose shall follow accessory structure criteria, where applicable.

(1) **Application Requirements.** In addition to the regular requirements of a standard building permit application, the following must be submitted with the use-by-permit application:

A site plan clearly defining the location of the proposed small wind energy conversion system including any towers, setbacks, and height information. The site plan shall also show the location of all existing structures, above-ground utility lines and existing vegetation described by size and type.

(2) A letter of certification from a registered structural engineer that verifies the structural integrity of the supporting tower for its ability to withstand structural and wind loads in compliance with the city's building code.

(3) **Design Standards.**

(a) Maximum height. The maximum height of a small wind energy conversion structure shall not exceed 50 feet in all residential and agricultural zoning districts and 75 feet in all other zoning districts.

(b) Setback. A small wind energy conversion structure shall be located at least one times the height of the structure from all property lines and from any overhead utility lines. These wind energy conversion structures may be freestanding or co-located on buildings or other structures.

(c) Noise and frequency emission. The sound levels of noise radiating from the small wind energy conversion system shall not at any time exceed 45 decibels measured from the nearest property line(s) to the structure, or fluctuate more than ten decibels in a full cycle of the windmill. Generators and alternators shall be rated for, or emit a level of radio-frequency energy emission which will not create electrical interference.

(d) Number limitation. Small energy conversion systems shall be limited to one structure per parcel of land, or per five acres, whichever is less.

(4) **Electrical Power Limitation.** The electrical power output of the small wind energy conversion system shall not exceed 100 kilowatts or 1-1/2 times the kilowatt needs of the residence or business, whichever is less.

(5) **Safety.** Prior to installation of the system, the applicant shall notify the utility company which has jurisdiction over the property where the proposed system is to be located to prevent unsafe interconnections with the utility company's power grid. The installation shall meet the interconnect requirements of utility company or as is required by the public utilities commission (PUC). The small wind energy conversion structure shall be located on the site such that it allows sufficient access for repair or servicing without trespassing on adjoining property. Unauthorized access to the system's tower shall be prevented. The small wind energy conversion system shall be maintained in a sound working order and sound structural condition.

(6) **Abandonment and Removal**. Any system which is inoperable or abandoned for a period of not less than 180 days shall be disconnected from the public utility and dismantled and removed from the property within 30 days following notice from the building official.

Sec. 21-5266. Subsurface Extraction

(1) **Purpose.** This Section is enacted pursuant to the land use authority and the police powers of the City and following the procedures described within, in order to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of the City. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners or lessees of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this Section and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a respectful manner and to have adverse land use impacts upon their property associated with the development of the mineral estate minimized and mitigated through compliance with this Section and by mutual accommodation of the surface and mineral owners. Should it be established by competent evidence that a proposed use cannot be undertaken and completed in compliance with this Section, approval for such a use may be denied unless an appeal is obtained.

(2) **Applicability.**

(a) Subject to the provisions of the Section, no Operation shall be initiated in any manner within the city prior to issuance of an Oil and Gas Permit.

(b) All Oil and Gas Well Operations, as defined in this Code, are subject to the requirements of this Section. In the event that the provisions of this Section conflict with any other provisions of the Code, this Section shall supersede as applied to Operations.

(c) In instances of directional and horizontal drilling where surface Operations associated with a well occur outside City limits, but subsurface Operations occur within City limits, the operator shall comply with the provisions of this Section.

(3) **Permit Required.**

(a) Permits issued pursuant to this Section shall encompass as part of its authorization, the right of the Operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the Oil and Gas Permit, subject to all other applicable City permits, regulations requirements, and state and federal laws and regulations. Oil and Gas Permits may be issued for sites that are within the Agricultural and Industrial zone districts, and within PUD zone districts where Oil and Gas Wells are specifically listed as an allowed or permitted use. In all other zone districts, Oil and Gas Permits may be issued only upon demonstration that no other reasonable alternative to access the oil and gas mineral interest exists.

(b) Exceptions.

(i) Operations in existence on the effective date of this subsection, or that are in existence and are located within territory that is thereafter annexed to the City, may continue without the issuance of an Oil and Gas Permit until the Operation is expanded, new wells are drilled, or a permit is issued by the COGCC that allows further or additional Operations. The right to operate an Oil and Gas Facility terminates if the use thereof is discontinued for six (6) months or more.

(ii) Any renovation, replacement or repair of nonconforming Oil and Gas Facilities shall be allowed without an Oil and Gas Permit, provided such work does not increase the degree of

nonconformity. The replacement or addition of individual conforming tanks, treaters or separators shall not require the remaining equipment or systems at an Oil and Gas Facility to conform to the development standards in this Section.

(4) **Application Requirements.**

(a) Application Requirements. An application for an Oil and Gas Permit shall include the following information:

(i) City application form and applicable, non-refundable fee;

(ii) An accurate legal description of the lease property to be used for the Operation;

(iii) Map showing proposed transportation routes and roads for equipment, chemicals or waste products used or produced by the Operation;

(iv) Proposed well name;

(v) Surface owner name(s), telephone number(s), address(es), and if possible, email address(es) of the leased property;

(vi) Mineral lessee name(s), telephone number(s), address(es), and if possible, email address(es);

(vii) Mineral owner name(s), telephone number(s), address(es), and if possible, email address(es);

(viii) Operator/applicant name(s), telephone number(s), address(es), and if possible, email address(es); if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners;

(ix) Name, telephone number, address, and if possible, email address of the individual designated to receive notice;

(x) Name of representative with supervisory authority over the proposed Operation and a twenty-four-hour phone number;

(xi) Location and description of all improvements, including water wells, and habitable structures within one thousand five hundred feet (1500') of the proposed Operation;

(xii) Owner and address of each parcel of property within one thousand five hundred feet (1500') of the proposed Operation;

(xiii) The location of existing wildlife, nature areas, or open space within one thousand five hundred feet (1500') of the well site or production site, if any;

(xiv) A site plan for the proposed Operation showing the location of all improvements and drilling equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators, and storage tanks, including the number of the potential maximum number of wells to be drilled and associated drilling equipment;

(xv) For private access roads connecting Operations with a public street or state highway, the Operator shall provide written documentation as part of the permit application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the Oil and Gas Facilities.

(xvi) A description of public utilities required during drilling and operation;

(xvii) A description of the water source(s) to be used during drilling;

(xviii) A description of how waste products will be managed for the Operation;

(xix) A description of storm water pollution prevention plan and erosion control plan pursuant to the city's standards;

(xx) A copy of the hazardous materials management plan. In addition to the hazardous materials management plan, all material safety data sheets (MSDSs) for all hazardous materials that will be located, stored, transported, and/or temporarily used in conjunction to the Operation shall be provided to the city and fire district;

(xxi) A copy of the emergency response plan as required by the city;

(xxii) A copy of an emergency evacuation plan shall be provided, detailing all persons to be notified in the event of an evacuation, including without limitation, all persons residing

within one-half (1/2) mile of the edge of construction or surface disturbance;

(xxiii) Evidence of insurance and security requirements under this section;

(xxiv) A copy of the noise management plan, for any equipment used in the drilling, completion, or production of an Oil and Gas Well;

(xxv) A notarized statement, under oath, signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct;

(xxvi) Copies of all information submitted to the COGCC to include but not limited to:

a. The proposed location of Production and Oil and Gas Facilities in the event production is established.

b. The layout of the Oil and Gas Facilities, including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.

c. The following information within a radius of 1500 feet of the proposed well:

1) Existing surface improvements;

2) Existing utility easements and other rights-of-way of record; and

3) Existing irrigation or drainage ditches.

(xxvii) A plan for weed control at the Oil and Gas Facilities;

(xxviii) A sanitary facilities plan that complies with city and COGCC regulations;

(xxix) A lighting plan;

(xxx) A revegetation plan;

(xxxi) A list of all permits or approvals obtained or yet to be obtained from local, state, or federal agencies, other than the COGCC;

(xxxii) A public improvement agreement (if applicable); and

(xxxiii) Any other information that the city deems necessary for consideration of an Oil and Gas Permit application.

(b) General Business License Requirement. Operators shall obtain and maintain a general business license prior to commencing operations. Operators must conform to applicable provisions of the Commerce City Municipal Code related to licensing.

(c) Building Permit Requirement. The Operator shall obtain building permits prior to the construction of any above-ground structures to the extent required by the City building and fire codes then in effect.

(d) Public Notification Process. The City shall follow the public notification procedures outlined in Article III with the following addition:

(i) Adjacent Property Notification. All costs of property owner notification shall be borne by the Operator.

(e) Public Comment Procedures.

During the Public Notification process, members of the public will have the opportunity to file written comments with the City. The nature of these comments can be in favor of the proposed Oil and Gas Permit, against the proposed Permit, provide additional information regarding the Oil and Gas Permit, or ask further questions regarding the Oil and Gas Permit. The deadline for providing these comments shall be contained in the public notification of the process as outlined in the public notification section. The comments received can be used by the Director to inform the decision based on the relevance and accuracy of the comments. Any written objection request must be directly related to the proposed Oil and Gas Permit.

(f) Third Party Technical Review. Upon determination that the application is complete, the City may require that the application materials, including requests for exceptions based on operational conflicts be submitted to a technical consultant deemed by the City to be appropriate and necessary to complete the review. Reasonable costs associated with such review shall be paid by the Operator.

(g) Extraction Agreement Required. Every Operator shall enter into an Extraction Agreement ("EA") with the City prior to the issuance of an Oil and Gas Permit.

(5) **General Standards.** All Operators and their agents, employees, licensees, and contractors shall:

(a) Comply with all local, state, and federal laws and regulations;

(b) Comply with FAA Regulations relative to building height and locations; and

(c) Enter into and comply with an Extraction Agreement that is acceptable to the City.

(6) **Site Development.**

(a) Visual Mitigation Plan Required. Applications for Oil and Gas Permits may be required to include a visual impact analysis when the Operation will be located adjacent to or in the vicinity of current or future residential and/or commercial land uses, as determined by the Director. When required, the Visual Mitigation Plan shall include photographic simulations of the Oil and Gas Well Site that include proposed impact mitigation measures as indicated below. The Director will determine if the proposed Oil and Gas Well Site requires a photographic simulation based upon topography, existing vegetative and/or structural screening and the linear distance from the proposed Operations to residential and/or commercial land use(s).

(b) Visual Mitigation Methods. One or more of the following visual mitigation methods may be required on a site-specific basis: Use of low-profile tanks, facility painting, vegetative or structural screening, land berming and landscaping.

(i) Where the painting of an Oil and Gas Facility or any structural screening (i.e., fence or wall) is required as a method of visual impact mitigation, such Oil and Gas Facility and screening shall be painted a uniform, non-contrasting, non-reflective color. The Oil and Gas Facility or structural screening paint color shall be matched to the land, not the sky, and shall be slightly darker than the adjacent landscape.

(ii) Any exposed concrete shall be colored to match the soil color.

(iii) To the maximum extent feasible, the Operator shall use structures of minimal size to satisfy present and future functional requirements.

(iv) At all times, the Operator shall minimize the removal of existing vegetation.

(c) Fencing. Above-ground Operations shall be fenced and gated with eight-foot (8') high, wrought iron fencing, Ameristar Impasse, Stronghold fencing, or approved equivalent. The fencing color shall be black unless the Director approves an alternative fencing color.

(d) Landscaping.

(i) All plant materials shall be maintained in a healthy growing condition at all times. The Operator is responsible for the regular weeding, mowing, fertilizing, pruning and other maintenance of all plant materials as needed. Proper irrigation of plant materials shall be provided, except that automatic irrigation systems are not required if no direct water connection is available within 500 feet.

(ii) The City may require landscaping to mitigate visual concerns, and one or more of the following landscape criteria may be required. The specific requirements for landscape screening and buffering shall be determined by the Director and may include, but not be limited to:

a. Earthen berm located around the perimeter of the fence and planted with turf grass or ground cover generally recognized by landscape architects and horticulturalists for local area use for the purpose of general screening;

b. Installation of ground cover, trees and shrubs for screening and aesthetic purposes; and

c. Designing the Oil and Gas Facility to utilize natural screens where possible.

(e) Lighting. To the maximum extent practical, exterior lighting shall be directed away from residential and other sensitive areas or shielded from said areas to eliminate glare. All permanent lighting fixtures installed at the Operations shall comply with the lighting standards of this Code.

(f) Signs and Markers. The Operator shall mark each and every Oil and Gas Well in a conspicuous place, from the time of initial drilling until final abandonment, as follows:

(i) General Sign Requirements. No sign required under this Section shall be installed at a height exceeding six (6) feet. Operators shall maintain signs in a legible condition and shall replace damaged or vandalized signs within sixth (60) days. New or successor Operators shall update signs within

sixty (60) days after change of Operator approval is received from the COGCC.

(ii) Drilling and Recompletion Operations. The Operator shall provide directional signs, no less than three (3) and no more than six (6) square feet in size, during all drilling and recompletion Operations. Such signs shall be at locations sufficient to advise emergency crews where drilling or recompletion is taking place. At a minimum, such sign locations shall include the first point of intersection of a public road and the rig access road and thereafter at each intersection of the rig access route, except where the route to the well is clearly obvious to uninformed third parties. Signs not necessary to meet other obligations under these rules shall be removed as soon as practical after the Operation is complete.

(iii) Permanent Designations.

a. Oil and Gas Wells. Within sixty (60) days after the completion of an Oil and Gas Well, a permanent sign shall be located at both the wellhead and surface equipment (if not at the wellhead), which shall identify the Oil and Gas Well, the name and contact information of the Operator and the legal location, including the quarter section.

b. Tank Batteries and Other Surface Equipment. Within sixty (60) days after the installation of a tank battery, a permanent sign shall be located at the tank battery. At the option of the Operator, or at the request of the City, the sign may be placed at the intersection of the lease access road with a public road nearest the tank battery, if the tank battery is readily apparent from such location. Such sign, which shall be no less than three (3) square feet and no more than six (6) square feet, shall provide: the name of the Operator; a phone number at which the Operator may be reached at all times; a phone number for local emergency services; the lease name or Oil and Gas Well name(s) associated with the tank battery; the public road used to access the site; and the legal location, including the quarter section. In lieu of providing the legal location on the permanent sign, it may be stenciled on a tank in characters visible from one-hundred (100) feet away.

c. Tanks and Containers.

1) All tanks with a capacity of ten (10) barrels or greater shall be labeled or posted with the following information:

a) Name of Operator;

b) Operator's emergency contact telephone number;

c) Tank capacity;

d) Tank contents; and

e) National Fire Protection Association (NFPA*)* Label.

2) Containers that are used to store, treat or otherwise handle a hazardous material and required to be marked, placarded or labeled in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations, shall retain the markings, placards and labels on the container until the container is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.

(g) Environmental.

(i) Floodplain Prohibition. Operations in hazard areas, including floodplains and man-made (e.g., airport and landfill) conditions that constitute a hazard to public health and safety or to property shall be prohibited. Land shall not be developed for Oil and Gas Facilities and Operations until hazards have been identified and avoided or removed, or until the Operator can show that the impact of the hazard(s) can be mitigated to the satisfaction of the City.

(ii) Vegetation.

a. Existing Vegetation Analysis. Applications for an Oil and Gas Permit shall include an analysis of the existing vegetation at the Oil and Gas Well Site to establish a baseline for re-vegetation upon abandonment of the Oil and Gas Facility or upon final reclamation of the Oil and Gas Site. The analysis

shall include a written description of the species, character and density of existing vegetation at the Oil and Gas Site and a summary of the potential impacts to vegetation as a result of the proposed Operation.

b. Re-Vegetation. Applications for an Oil and Gas Permit shall include a copy of any COGCC accepted interim and final reclamation procedures and there shall be consultation with City staff regarding site specific re-vegetation plan recommendations.

c. Weed Control Plan. Applications for Oil and Gas Permits shall include a copy of a weed control plan that complies with all City requirements for weeds and vegetation under the City's Municipal Code. Oil and Gas Well Sites shall be considered developed property for the purposes of this Section.

(iii) Wildlife Mitigation Plan.

a. General. When Operations will be located within or adjacent to a wildlife or natural area, the Operator shall consult with the Colorado Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The Operator shall implement such mitigation procedures as are recommended by the Colorado Division of Wildlife after consultation with the City. The Operator shall file a mitigation plan with the City.

b. Endangered Species. The Operator shall not engage in activities that, in the opinion of the Colorado Division of Wildlife, threaten endangered species.

(iv) General Waste Management.

a. The Operator shall at all times keep all aspects of an Operation, including roads and rights-of-way, safe and in good order, free and clear of noxious weeds, litter and debris.

b. Disposal of any water, except as provided herein, or any equipment, litter, sewage, waste, trash, chemicals or debris shall be at an approved disposal site.

(v) Sanitary Regulations. The Operator shall provide proper health and sanitation facilities for its employees and subcontractors.

a. The Operator shall fully comply with all applicable rules and regulations of the county and state health departments or other similar body.

b. The Operator shall at all times provide at the Oil and Gas Well Site a sufficient supply of safe drinking water for its employees and shall give orders against the use of water known or believed to be unsafe.

c. During extended construction and maintenance operations, the Operator shall, at convenient places within the Oil and Gas Well Site, provide fly-proof outside toilets, which shall be maintained in a sanitary condition. Toilets shall not be permitted in any water reservoir area and shall not be permitted where they may pollute a water supply.

(vi) Drainage and Stormwater Management.

a. Drainage. Operations shall comply with all applicable City drainage requirements and standards.

b. Stormwater Management. Any application for an Oil and Gas Permit shall include a description of the manner in which stormwater will be managed in accordance with City regulations. Operations, including the construction and use of access roads, well sites, pipelines and storage areas for equipment and materials, shall meet all stormwater management, erosion control and pollution prevention requirements of the Colorado Department of Public Health and Environment and the City.

(7) **Nuisances.**

(a) Odor/Dust Containment. Operations shall be conducted in such a manner that odors and dust to do not constitute a nuisance or hazard to public health, safety, welfare and the environment. All Operations shall use the best available technologies to control odor and dust. If deemed necessary and reasonable, the City may require additional mitigation standards at any point during Operations.

(b) Noise Impacts.

(i) At a minimum, sound emission levels shall not exceed COGCC standards.

(ii) Operators may be required to provide for additional noise mitigation based on the following site specific characteristics:

a. Nature and proximity of adjacent development (design, location, use);

b. Prevailing weather patterns, including wind directions;

c. Type and intensity of the noise emitted; and

d. Vegetative cover on or adjacent to the site or topography.

(iii) Based on the foregoing, one or more of the following additional noise abatement measures may be required:

a. Acoustically insulated housing or covers enclosing any motor or engine;

b. Screening of the Oil and Gas Well Site or specific noise-emitting equipment by a wall or landscaping;

c. Solid wall of acoustically insulating material surrounding all or part of the Operation, such as hay bales;

d. A noise management plan specifying the hours of maximum noise and the type, frequency and level of noise emitted;

e. Use of electric-powered motors and pumping systems; and

f. Construction of buildings or other enclosures where Operations create noise and visual impacts that cannot otherwise be mitigated due to proximity, density or intensity of adjacent land use.

(8) **Traffic.**

(a) Traffic Impact Study. The City may require applications for an Oil and Gas Permit to include a traffic impact study, which shall clearly identify and distinguish impacts to City roads and bridges related to Oil and Gas Facility construction, Operations and ongoing new traffic generation. Traffic impact studies shall be prepared in accordance with City standards and requirements or other guidelines as identified by the City Engineer. The process for mitigation of transportation impacts will typically include a plan for

traffic control, the receipt of all necessary permits, ongoing roadway maintenance and improving or reconstructing City roads, including providing financial assurance.

(i) The Operator shall prepare a traffic control plan for each phase of Operations where City roads will be used for transportation of materials in support of facility construction or Operations.

(ii) In the event public road improvements are necessary to accommodate an Operation, and before work will be permitted within any City right-of-way, the Operator shall draft engineered drawings to be prepared by a Colorado licensed civil engineer, in conformance with City standards, for review and approval by the City. Financial assurances shall be required when any Operation requires the construction or reconstruction of public or private roads.

(b) Maintenance. In the event Operations or other activities cause any City roadway to become substandard, the City may require the Operator to provide ongoing repair and maintenance of the roadway at the Operator's cost. Such maintenance may include dust control measures and roadway improvements such as graveling, shouldering, and/or paving as determined in the Traffic Impact Study.

(c) Oil and Gas Well Site Access. Access to any property from a City street requires a City-issued access permit. Access Permits are revocable upon issuance of a stop work order or if other Oil and Gas Permit violations occur. The permitting and construction of accesses shall comply with the City's Engineering Construction Standards and Specifications and design standards.

(d) Private Access Roads. All private roads used to access or conduct Operations shall be graded for appropriate drainage and surfaced and maintained to provide adequate access for the Operator's vehicles and emergency vehicles. The Operator shall comply with City standards regarding vehicle tracking and dust mitigation

(e) State Highway Access. Where a Site's access is directly to a state highway, the Operator must procure and maintain an approved State Highway Access Permit.

(f) Access Roads.

(i) Tank Battery Access Roads. Access roads to tank batteries shall be, at a minimum, a graded gravel roadway at least

twenty feet (20') wide with a minimum unobstructed overhead clearance of thirteen feet six inches (13' 6") and a minimum thickness to be approved by the City Engineer.

(ii) Wellhead Access Roads. Access roads to wellheads shall be, at a minimum, a graded gravel roadway at least twenty feet (20') wide with a minimum unobstructed overhead clearance of thirteen feet six inches (13' 6"), and a minimum thickness to be approved by the City Engineer.

(iii) Pavement Standards. To protect public streets, sidewalks, and curbs and gutters, all tank battery and wellhead access roads that intersect a paved City street or alley shall be paved to standards determined by the City Engineer. The access location shall comply with all City requirements.

(iv) Indemnification. No public improvements, such as curbs, gutters, pavement or sewer lines, etc., shall be damaged by vehicles entering or leaving the location. In the event of damage, the Operator shall indemnify the City for any repair costs.

(g) Haul Routes. Operators shall only use roadways for haul routes that are identified on a City-approved traffic control plan.

(h) Oversize/Overweight Vehicles. Any oversize or overweight vehicle making use of any City street shall obtain an Oversized, Overweight and Longer Vehicle Combination Permit from the City's Department of Public Works prior to any such use.

(9) **Prohibition.** The following facilities are prohibited within the City:

(a) Injection wells for disposal of oil and gas exploration and production wastes;

(b) Disposal pits;

(c) Commercial disposal facilities;

(d) Centralized Exploration and Production waste management facility;

(e) Subsurface disposal facility; and

(f) Temporary housing at an Oil and Gas Facility, including trailers, recreational vehicles, etc.

(10) **Abandonment and Plugging.**

(a) The Operator shall comply with all COGCC rules in relation to abandonment and plugging.

(b) Operators of Wells that are to be abandoned shall notify the applicable Fire District (the "Fire District") not less than two (2) hours prior to commencing plugging operations.

(c) Operators shall notify the City if the flow and gathering lines have been or will be abandoned.

(d) Operators shall provide copies of all COGCC plugging and abandonment reports to the City at the same time such are filed with the COGCC.

(e) It shall be unlawful for any Operator or other person to reactivate a plugged or abandoned Oil and Gas Well unless a new Oil and Gas Permit has first been issued by the City. The initial Oil and Gas Permit may allow any twinning, sidetracking, deepening, recompleting or reworking of an Oil and Gas Well and relocation of accessory equipment or gathering and transmission lines so long as all applicable City and State regulations are met.

(11) **Impact Fees.** The Operator shall pay a fee sufficient to pay for all impacts of the proposed Operation to improvements and property owned or operated by the City or used by the general public including, but not limited to: repair and maintenance of roads, bridges and other transportation infrastructure; improvements made or to be made by the City to accommodate the Operations and to protect public health, safety and welfare; costs incurred to process and analyze the Oil and Gas Permit application, including the reasonable expenses paid or to be paid by the City to independent experts or consultants; and impact fees comparable to those charged to other businesses or industries that operate within the City and that are not specifically mentioned herein. The City shall establish a mechanism to assess and obtain payment of such fees, subject to the right of the City to request additional funds if the fees prove to be insufficient or to refund surplus funds to the Operator if the fees paid exceed the true cost of the impacts.

(12) **Financial Assurances.**

(a) Insurance.

(i) Commercial General Liability Insurance. The Operator shall procure and maintain throughout the lifetime of the Operation a policy of comprehensive general liability insurance, or a self-insurance program approved by the

Colorado Insurance Commission, insuring the Operator, and naming the City as an additional insured, against any liability for personal injury, bodily injury or death arising out of the Operations with coverage of at least one million dollars ($1,000,000) per occurrence.

(ii) Comprehensive Automobile Liability Insurance. The Operator shall procure and keep in force during throughout the lifetime of the Operation a policy of comprehensive automobile liability insurance insuring the Operator, and naming the City as an additional insured, against any liability for personal injury, bodily injury or death arising out of the use of motor vehicles and covering operations on or off the Site of all motor vehicles controlled by the Operator or its subcontractors that are used in connection with the Operations, whether the motor vehicles are owned, non-owned or hired, with a combined single limit of at least one million dollars ($1,000,000).

(iii) Unless the Operator is self-insured, insurance required by this Section shall be with companies qualified to do business in the State of Colorado and may provide for deductible amounts as the Operator deems reasonable, but in no event greater than Ten Thousand dollars ($10,000.00). The Operator is responsible for payment of any deductible. No such policies shall be subject to cancellation or reduction in coverage limits or other modification except after thirty (30) days prior written notice to the City. The Operator shall identify whether the type of coverage is “occurrence” or “claims made.” If the type of coverage is “claims made,” which at renewal the Operator changes to “occurrence,” the Operator shall carry a twelve (12) month tail. The Operator shall not do or permit to be done anything that shall invalidate the policies.

(iv) No “Pollution Exclusion.”

a. The insurance required by this Section shall cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, and shall not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise.

b. In the event the Operator is unable to procure a policy of comprehensive general liability insurance in

compliance with the provisions of this subsection, the Operator shall secure and maintain either a rider or a separate policy insuring against liability for pollution related damages, claims or suits, as described in this subsection, with at least One Million dollars ($1,000,000) each occurrence, subject to approval by the City, which approval shall not be unreasonably withheld.

(v) Mutual Benefit. The insurance policies described in herein shall be for the mutual and joint benefit and protection of the Operator and the City. All insurance policies required herein shall provide that the City, although named as an additional insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to the City or its officers, employees or agents by reason of negligence of the Operator or its officers, employees, agents, subcontractors or business invitees. Such policies shall be written as primary policies not contributing to and not in excess of coverage the City may carry.

(vi) Evidence of Coverage. Prior to issuance of an Oil and Gas Permit, the Operator shall furnish to the City certificates of insurance policies evidencing insurance coverage required herein. The Operator shall, upon request by the City and not less than thirty (30) days prior to the expiration of any such insurance coverage, provide the City with a certificate of insurance evidencing either new or continuing coverage in accordance with the requirements of this Section.

(b) Performance Security. To ensure compliance with mitigation and other requirements set forth in this Section and specific conditions of approval for the Operations, the Operator may be required to provide reasonable performance security to the City through a minor improvement security agreement as outlined in this Code in an amount to be determined by the City and in a form acceptable to the City. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and any damage to public infrastructure.

(c) Cost Reimbursement Agreement. The Operator shall reimburse the City and/or the Fire District for any emergency response costs incurred by the City and/or the Fire District in connection with the Operations.

(13) **Inspection by the City.**

(a) Right to Enter. In addition to the rights identified in the City's Municipal Code, the City shall have the authority to discontinue the application process, revoke approved permits or to obtain an order from a court of competent jurisdiction to obtain entry, in the event entry is denied.

(b) Operator Contact. The Operator shall provide the telephone number of a contact person who may be reached 24 hours a day for purposes of being notified of any proposed City inspection under this Section or in case of emergency. All Operations may be inspected by the City at any time to ensure compliance with the requirements of the Oil and Gas Permit, provided that at least one hour prior notice is given to the contact person at the telephone number supplied by the Operator. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting an Oil and Gas Permit, the Operator grants consent to such inspections. The cost of any such inspection shall be borne by the Operator, provided such inspections and fees are not in conflict with COGCC inspections and rules.

(14) **Appeals/Noncompliance.**

(a) The Operator may submit a separate written request and application to the City for a waiver of certain requirements of this Section, which may be granted where the implementation of such requirements is impossible or unnecessary, where it would materially impede or destroy the state's interest, or where it would cause the Operator to violate other applicable laws (i.e., "Operational Conflict"). All applications for a waiver of appeal shall be heard in a noticed public hearing by the City in a quasi-judicial capacity, through the Planning Commission and the City Council. The Operator shall have the burden of pleading and proving a lack of necessity, or an actual, material, irreconcilable impossibility or Operational Conflict. If the City finds in favor of the Operator by a preponderance of evidence in the record, then a waiver may be granted in whole or in part, but only to the extent necessary to provide the relief sought.

(b) For this Section, no variances of minor modifications are permitted concerning Oil and Gas Permits. All requests for non-compliance shall be addressed via the process identified above.

(15) **Enforcement and Penalties.**

(a) Failure to Obtain Permits. Any Operator that fails to obtain an Oil and Gas Permit, or that fails to comply with requirements of this Section, the Oil and Gas Permit, or the EA, may be enjoined by the City from engaging in Operations and may be subject to such other criminal or civil liability as may be prescribed by law.

(b) Suspension of Oil and Gas Permit. In the event the City determines that the Operator has violated any term or condition of this Code, the Oil and Gas Permit or the EA, or that one or more material changes to the Operations or Oil and Gas Facilities have been made without the express, written consent of the City, the Director may temporarily suspend the Oil and Gas Permit and order all Operations thereunder to cease. In such event, the Operator shall immediately cease all Operations upon written notification by the Director of the violation or identification of the material change(s).

(c) Revocation of Oil and Gas Permit. Following notice and hearing, the Planning Commission or City Council may revoke an Oil and Gas Permit if the Operator has violated any term or condition of this Code, the Oil and Gas Permit or the EA, or if one or more material changes to the Operations or Oil and Gas Facilities have been made without the consent of the City.

(i) Not less than thirty (30) days prior to the revocation hearing, the City shall provide written notice to the Operator identifying the violation and/or the material changes and the time and date of the hearing.

(ii) Public notice of the revocation hearings shall follow the standard notice procedures of the Planning Commission and City Council.

(iii) If, following the hearings, the Planning Commission or City Council determines by a preponderance of evidence that one or more violations exist, the City may:

a. Revoke the Oil and Gas Permit;

b. Suspend the Oil and Gas Permit pending correction of the violation(s) by a date certain; or

c. Defer action on the Oil and Gas Permit pending correction of the violation(s) by a date certain.

(d) Assignment of Permits. An Oil and Gas Permit may be assigned to another Operator only with the written consent of the City and upon a showing that the new Operator can and will comply with all requirements, terms and conditions of this Code, the Oil and Gas Permit and the EA and all applicable state, local and federal laws, rules and regulations. Such new Operator shall execute a written consent to assignment of the EA on a form approved by the City.

(e) Judicial Review. Any action seeking judicial review of a final decision of the City shall be initiated in the District Court for Adams County, Colorado, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

(f) Governing Law and Venue, and Recovery of Costs. This Code, the Oil and Gas Permit and the EA shall be governed by the laws of the State of Colorado. Venue for state court actions shall be in Adams County, Colorado, and for federal actions shall be in United States District Court for the District of Colorado. In the event the City brings any action against the Operator to enforce any provision of this Code, the Oil and Gas Permit or the EA, the Operator shall pay all reasonable court costs and attorney fees incurred by the City.

(16) **No Permit Approval Pending Enforcement Action.** No Oil and Gas Permit or application therefore shall be processed or approved on behalf of an Operator or property owner for a Site that is subject to an ongoing enforcement action.

(17) **Other Oil and Gas Operations – Seismic Operations.** An Oil and Gas Permit shall not be required for seismic surveys unless the drilling of a seismic (shot hole), core or other exploratory hole is involved or unless the seismic survey is located on City property.

Section amended by Ord. 1891, August 2012

Sec. 21-5268. Telecommunication Facilities

(1) **Application Required.** Any person wishing to locate a telecommunications facility within the city shall submit an application containing the following information:

(a) A to-scale site plan that shows the zoning of subject property and immediately adjacent properties within 300 feet of the proposed site and includes: topography in increments of 10 feet; location of easements and access points; structures, the telecommunications facility, and setbacks from the property line;

(b) If required by the director, a landscape plan detailing the amount and type of screening used to buffer the accessory equipment from public view;

(c) A report including a description of the tower, with technical reasons for its design, availability of suitable existing structures for antenna mounting, and a statement of the required height;

(d) If required, a photo simulation depicting a location from which the facility may be viewed, as determined by the city;

(e) The applicant shall submit evidence of ability to obtain a bond, letter of credit, or other financial security as required by the city to insure removal of the CMRS facility; and

(f) Any additional information as required by the director.

(2) **Review and Approval.** Applications for telecommunications facilities that meet the standards contained in this section may be approved by the director administratively or, at the director's discretion, may be referred to the board of adjustment. Applications for telecommunications facilities that do not meet the standards may apply to the board of adjustment for a use-by-permit. All telecommunications facilities shall be approved by the city prior to installation. It shall be unlawful for any person, firm, or corporation to erect or construct a telecommunications facility without first obtaining authorization from the city.

(3) **Federal Aviation Administration (FAA) Review.** Telecommunication facilities that exceed 200 feet in height or are located within 20,000 feet of a major airport (commercial and military aircraft facility) and 10,000 feet of a general aviation airport (serving smaller aircraft) shall be reviewed by the FAA.

(4) **Use Schedule.**

Table V-2 - Use Schedule for Telecommunication Facilities

Zone District	Co-locations to Existing Structures, Buildings, or Monopoles	New Freestanding Facilities
R-1	N/A	N/A
R-2	N/A	N/A
R-3	N/A	N/A
R-4	N/A	N/A
MHP	N/A	N/A
C-1	R/P	P
C-2	R/P	P

Zone District	Co-locations to Existing Structures, Buildings, or Monopoles	New Freestanding Facilities
C-3	R/P	P
MU-1	R/P	P
I-1	R/P	P
I-2	R/P	P
I-3	R/P	P
PUD[1]	R/P	P
AG	R/P	P
PUBLIC	R/P	R/P
FP	N/A	N/A

R An administrative permit issued by the department of community development
P Use-by-permit approval required by the board of adjustment
N/A Not allowed
1 Allowed in commercial and industrial PUDs and shall comply with commercial and industrial zone district requirements.

(5) **Freestanding Facilities.**

(a) District Restrictions.

(i) Residential districts. Freestanding commercial mobile radio facilities and/or telecommunications facilities are not allowed in any residentially zoned district or any residential use PUD zone district.

(ii) Mixed-use districts. All free-standing commercial mobile radio service (CMRS) facilities and/or telecommunications facilities located within mixed use zoned districts are subject to the requirements of the applicable Planned Unit Development (PUD) Zone Document. In those cases where the installation of a free-standing commercial mobile radio facilities and/or telecommunications facilities is not addressed in the PUD, the following requirements shall apply:

Table V-3 - Free-Standing Commercial Mobile Radio Facility Requirements Not Addressed by Specific PUD

PUD Zoning	Developed As:	Requirement
Mixed Use	Residential	Not Allowed
Mixed Use	Commercial	Subject to the requirements of the commercial districts and shall maintain a distance of 100' from residentially zoned and/or developed properties.

(iii) Commercial and industrial districts. Unless granted a use-by-permit, all freestanding commercial mobile radio service facilities and/or telecommunications facilities shall comply with the setback requirements of the applicable zoned district and shall not reduce the required parking and/or landscaping requirements for the principal use. All accessory equipment shall be enclosed behind a screened fence, and shall be landscaped and/or screened from public view pursuant to a landscaping and screening plan to be approved by the director.

(iv) Agricultural districts. Unless granted a use-by-permit by the board of adjustment, all freestanding commercial mobile radio service facilities and/or telecommunications facilities shall have a setback equal to 1-1/2 times the height of the tower from all property lines and shall not reduce the required parking and/or open space requirements for the principal use. All accessory equipment shall be enclosed behind a screened fence, and shall be landscaped and/or screened from public view pursuant to a landscaping and screening plan to be approved by the director. Free-standing facilities are limited to one tower per legally subdivided parcel.

(b) Standards. Free-standing facilities shall meet the following standards:

(i) Existing land forms, vegetation, and structures shall be used to aid in screening the facility from view or blending in with the surrounding built and natural environment.

(ii) They shall comply with all landscaping requirements.

(iii) They shall be designed for a minimum of two users and shall not be constructed as a lattice tower, but may be constructed as a monopole or other commercial mobile radio service

facility as approved by the department of community development.

(iv) They shall not be located within 2,000 feet of any existing free-standing commercial mobile radio service facility. If it is determined by the applicant that 2,000 feet is not feasible, the city may require a third party technical study at the applicant's expense to validate those findings.

(v) If the director finds that approval would not be detrimental to the health, safety, and welfare of the residents and businesses of the city, the director may grant a permit for a commercial mobile radio service facility up to a maximum height of 70 feet in industrial zoned districts, and in other zoned districts up to the maximum height allowed in the zoned district where the facility is to be located. Upon receipt of a petition and after public hearing, the board of adjustment may grant a height exception for any facility greater in height than is otherwise allowed.

(vi) They shall have a 1:1 ratio height to setback or 100-foot setback, whichever is greater, from all residential zoned districts.

(vii) If located within 2,000 feet of the existing public service transmission line, which begins at Colorado State Highway 85, travels east, south of East 104th Avenue, moves north by northeast east of Picadilly Road, and concludes at Hayesmount Road, the applicant shall examine the feasibility of co-location on the power line and submit a report to the director with findings. If it is determined by the applicant that co-location on an existing tower is not feasible, the city may require a third-party technical study, at the applicant's expense, to determine the feasibility of co-location.

(viii) If located within 2,000 feet of E-470 Highway right-of-way, the telecommunications facility shall be located within the E-470 multiple-use easement.

(ix) No telecommunications facility owner or operator shall unfairly exclude a telecommunication competitor from using the same facility or location. Upon request by the city, the owner or operator shall provide evidence as to why co-location is not possible.

(x) If a telecommunications competitor attempts to co-locate a facility on an existing or approved telecommunications

facility or location, and the parties cannot reach an agreement, the city may require a third party study, at the expense of either or both parties, to determine the feasibility of co-location.

(xi) Telecommunications facility shall be finished in a neutral color to reduce visual obtrusiveness, subject to any applicable standards of the FAA. In those instances where a neutral color negatively impacts the surrounding environment, as determined by the city, the city may require a color that mitigates the telecommunications facility on the surrounding environment.

(xii) Prior to obtaining approval for the erection of a CMRS facility, the owner or operator shall, if requested by the city, post with the city a bond in an amount sufficient to cover the cost of removal of the facility if abandoned, or deemed abandoned, pursuant to the requirements and standards set forth in this code.

(xiii) In some circumstances, the city may require canister-type antenna instead of the traditional array antenna, if the city determines that the proposed location would be negatively impacted by the array antenna.

(6) **Accessory Equipment.** All buildings, shelters, cabinets, and other components shall be grouped as closely together as technically possible in all zoned districts. The total footprint coverage area shall not exceed 400-square feet per provider, and no structure shall exceed 12 feet in height and shall be compatibly constructed to the design, materials, and colors of all structures on the same and/or adjacent parcels, and shall not reduce the parking requirement and/or landscaping area for other principal uses on the parcel.

(7) **Signage.** Wireless telecommunication facilities shall not display signs or advertising devices other than certification, warning, or other required seals or signs. This requirement does not preclude mounting antennas on an existing sign.

(8) **Co-location on Existing Buildings or Structures.** Co-location of additional antennae on an existing building or structure shall be permitted so long as the following requirements are met:

(a) A building or structure roof-mounted commercial mobile radio service facility shall not exceed the height of the building or structure by more than ten feet and shall be adequately screened as determined by the department of community development. The

applicant shall have the right to appeal to the board of adjustment the decision of the department of community development as to the required screening.

(b) A building or structure enclosing a wall-mounted commercial mobile radio service facility shall not extend outside of the building wall by more than 2-1/2 feet and shall not exceed the height of the parapet line of the building or structure and shall match the building or structure in design, color, and materials.

(c) Accessory equipment for roof-mounted commercial mobile radio service facilities and/or telecommunications facilities shall be located at or near the center of the roof and shall not exceed 10 feet in height and shall not exceed an aggregate total of 15 percent of the building roof area, and shall match the building or structure in design, color, and materials. Accessory equipment for wall-mounted facilities located on the roof shall adhere to the standards for roof-mounted facilities. If the equipment is located on the ground, the accessory equipment shall adhere to the following requirements:

(i) The accessory equipment shall be located as close to the building or structure as possible.

(ii) The accessory equipment footprint shall not exceed 400-square feet, and shall not be more than 12 feet in height.

(iii) The accessory equipment shall match the building or structure in color, design, and materials, and shall not reduce the landscaping or parking requirement for the use of the subject property.

(iv) Where appropriate, as determined by the director, the accessory equipment structure shall be landscaped from public view and all rights-of-way.

(v) There shall be a screened or concealing wall or fence enclosing all accessory equipment.

(9) **Denials**. Any decision denying an application under this section for the placement, modification, and/or construction of any telecommunications facility shall be in writing or supported by a written record.

(10) **Technological Advancement.** All approvals shall include the requirement that the tower, antennas, equipment, and buildings be upgraded with structures which have a reduced visual impact on public views, as technology changes. An assessment of technological advances

and replacement of equipment shall occur during the review of any building permit request for changes to the site or as part of an application for a use-by-permit.

(11) **Pre-Existing Facilities.** Preexisting facilities, for which a permit has been properly issued prior to the date of enactment of this ordinance, shall be considered legal non-conforming structures and shall not be required to meet the requirements of this section. Changes, alterations, modifications, and additions to preexisting telecommunications facilities shall meet the applicable requirements of this section. This may include a co-location or an increase in the number of antennae.

(12) **Abandonment.**

(a) All uses-by-permit for telecommunication facilities shall expire immediately upon cessation of use by the provider. Not less than every five years, all providers must furnish to the city proof of continued use of the telecommunications facility. Proof shall consist of a copy of the FCC license and a letter from the cellular provider indicating that the facility is still in use. All providers must furnish to the city notice of discontinuation of use by furnishing a copy of any notices reflecting discontinued use as sent to the FCC or other federal regulatory agency having jurisdiction over the operation of the facility. In addition, commercial mobile radio service facilities not used for a continuous period of 6 months shall be deemed abandoned and shall be removed no later than 90 days after being deemed abandoned.

(b) All leases for the location of commercial mobile radio service facilities must provide that the provider shall have full access to the leasehold space for the purpose of removing the facility. In addition, in the event that the provider and/or the landlord shall fail to remove the facility within the 90-day time period provided herein, then the city shall have access to the leasehold space of the abandoned facility for the purpose of removal. All costs incurred by the city in connection with the removal of the facility shall be recoverable, at the option of the city, against the bond posted by the owner or operator, or alternatively, all costs incurred may be assessed as a lien against the property on which the facility is located, and the city may record said lien, and the lien shall be enforceable and may be collected in the same manner as a tax lien by the county treasurer and any funds recovered thereby shall be remitted to the city, provided, however, that prior to the city's removal of the abandoned facility the city shall have first given notice to the provider and the landowner, by regular and certified mail, of its intent to remove the facility, not less than 30 days prior to the city's removal of any abandoned facility.

Sec. 21-5270. Transportation Terminals and Truck Stops

(1) All new businesses and fellowship activities shall be contained within the primary structure. No detached garage, tent, trailer, vehicle, storage container, or accessory building shall be used to house any new, ongoing for-profit, non-profit, charitable, or religious business or establishment. A temporary use, the duration of which shall not exceed one calendar week, may be allowed on the property, subject to all applicable standards and permitting requirements contained in this code. In no event shall more than one temporary use occur on the same property at the same time.

(2) A conditional use permit shall be required for all new transportation terminals in the I-1 zoning district and all truck stops. All such uses legally operated as a use-by-right as of the effective date of this land development code shall be considered a legal conforming use only under the following provisions and exceptions:

(a) Use of the property as a transportation terminal or truck stop was a use by right before the effective date of this code; and

(b) The property was in use as a transportation terminal or truck stop on the effective date of this code.

(c) Exceptions. Any building permit that increases the size of any covered structure, truck bay, or building larger than 200-square feet on the property will require the current use to obtain a conditional use permit, approved by city council, prior to approval of the above mentioned building permit.

Paragraph (1) amended by Ord. 1854, April 2011

Sec. 21-5271. Truck and/or Vehicle Repair

(1) **General Standards:** All truck and/or vehicle repair uses shall comply with the following standards:

(a) Street access shall conform to the requirements imposed by the engineering division; and

(b) Vehicle access and circulation shall be designed so that the impacts to adjacent residential uses or properties from the movement of vehicles or the lights from vehicles are minimized.

(2) **Equipment, Activity, and Materials Enclosure.**

(a) All repair work, vehicle washing, installation of parts, hydraulic hoists, pits, and all lubrications, greasing, automobile detailing, or repairing equipment shall be entirely enclosed within a building.

When any such building or portion of a building faces, abuts, or is adjacent to residentially zoned property, the closest, adjacent building wall or face shall consist of a solid wall with no window or door openings other than those required by applicable building codes.

(b) All vehicle parts, dismantled vehicles and similar materials, and all discarded materials such as tires, cans, and drums, shall be stored within an enclosed building or meet the criteria for outdoor storage.

(3) **Vehicle and Truck Storage.** All vehicles awaiting repair shall be stored on site in approved parking spaces and under no circumstances shall such vehicles be stored outside in an unassembled condition, on an unapproved parking surface, or stored on or obstruct access to a public right-of-way.

(4) **Accessory Car Wash Bays.** A fully-enclosed, single-bay car wash is allowed as an accessory use subject to the following development and design standards:

(a) To the maximum extent possible, the entrance to the car wash bay shall be sited so as not to be visible from the lot's primary street frontage;

(b) The car wash bay shall be limited in size to a single vehicle;

(c) The car wash bay shall be located outside of the 20-foot landscape buffer required by paragraph (3)(b) of this section;

(d) In addition to any other off-street parking requirements or vehicles stacking requirements, the car wash shall have its own stacking requirements, found in section 21-7236 (Stacking Requirements);

(e) Where the use abuts a residential zoning district, the hours of operation for the car wash shall be limited to between 7 a.m. and 9 p.m.

Section moved by Ord. 1854, April 2011

Sec. 21-5272. Vehicle Sales and Rentals

All sales and rentals related to motorized vehicles shall comply with the provisions of this section.

(1) Display of vehicles shall be on hot-mix asphalt or concrete and shall not impact existing landscaped areas or encroach into required landscape buffers.

(2) No merchandise shall be placed for sale or display within any public rights-of-way, or landscaped areas.

(3) Outdoor displays that pose a safety hazard to the general public shall be prohibited.

(4) Outdoor displays of merchandise shall be located in areas that are accessible to and safe for pedestrian access.

(5) Any business engaged in vehicle sales or rentals shall have a principal building consisting of a minimum of 500-square feet in size. The building shall be a permanent structure. Modular or portable buildings, or mobile homes, shall not be permitted.

(6) Outdoor speakers and sound amplification systems shall not be permitted.

(7) There shall be no use of elevated platforms for the display of vehicles.

DIVISION 3. TEMPORARY USES AND STRUCTURES

A. GENERAL PROVISIONS

Sec. 21-5300. Temporary Uses and Structures Table

The Summary of Allowed Temporary Uses and Structures Table (table V-4 below) sets forth the temporary uses and structures allowed in the various zoning districts of the city, an indication of whether those uses and structures require a permit, and provides a reference to some of the regulations that apply.

Table V-4 - Summary of Allowed Temporary Uses and Structures

Temporary Use or Structure	Temporary Use Permit Required (See Section 21-3216)	Zoning District Allowed	Maximum Allowable Time Frame	Specific Regulations
Auctions	Yes	AG, I-1, I-2, I-3	7 days	
Batch plants	Yes	I-1, I-2, I-3, AG, Public	6 months	Sec. 21-5330
Car Wash (e.g., fundraiser)	Yes	All	3 days	
Charitable collection devices	Yes	C-2, C-3, I-1, I-2, I-3	60 days	Sec. 21-5335
Construction Trailer	Yes	All	Duration of Construction	
Farmers' Market	Yes	AG, C-2, C-3, I-1, I-2, I-3, Public	Per Section 21-5340	Sec. 21-5340

Temporary Use or Structure	Temporary Use Permit Required (See Section 21-3216)	Zoning District Allowed	Maximum Allowable Time Frame	Specific Regulations
Food vendor carts	No	Municipal Code	Municipal Code	Municipal Code
Mobile office structures	Yes	All	6 months	Sec. 21-5345
Mobile storage/containers	Yes	C-1, C-2, C-3, I-1, I-2, I-3, AG, R-1, R-2, R-3, Public	30 days	Sec. 21-5350
Natural disaster and emergency recovery/clean-up	No	All	Duration of recovery/clean-up	Sec. 21-5355
Outdoor short-term sales (e.g., tent or parking lot sales, sidewalk sales, hail/windshield repair, or similar uses)	Yes	C-1, C-2, C-3, I-1, I-2, I-3, MU-1, PUD	14 days	Sec. 21-5365
Outdoor seasonal holiday sales	Yes	All	Per Section 21-5370	Sec. 21-5370
Outdoor seasonal sales	Yes	C-1, C-2, C-3, I-1, I-2, I-3,MU-1	6 months	Sec. 21-5375
Outdoor vending machines, newspaper racks, and other machines	No	All	N/A	
Real estate sales or leasing office	Yes	All	1 year	Sec. 21-5380
Roadside Produce Stand	Yes	C-2, C-3, AG	3 months	Sec. 21-5385
Organized event (e.g., carnival/circus, fair, car show/sale, bazaar/flea market or similar events)	Yes	All	14 days	Sec. 21-5360
Temporary use not falling into above categories and occurring wholly within an enclosed building	Yes	All	Based on City review	Based on City review. See Section 21-3216 for procedures

Sec. 21-5305. Unlisted Uses and Structures.

Uses or structures not listed in table V-4 are prohibited.

Sec. 21-5310. Permit Requirements

No permit for a temporary use or structure shall be issued unless the applicant demonstrates:

(1) The use will not negatively affect the availability of parking and that adequate on-site parking will be available to accommodate the proposed temporary use for the duration of the permit. See article VIII for parking requirements; and

(2) All required fire lanes have been approved by the applicable fire district.

Sec. 21-5315. Deposit

A deposit in the form of a cashier's check may be required by the city to offset any costs incurred by the city in conjunction with a temporary use or temporary structure including, without limitation, sign removal, code enforcement, and clean-up. If required, the deposit, which may not exceed $2,000, shall be paid prior to any permit being issued. The city shall return any unused portion.

Sec. 21-5320. Requirements for Initiating Use

No temporary use shall be conducted or temporary structure erected and/or used except after:

(1) A site plan containing sufficient information to show compliance with standards and requirements of this land development code is submitted to and approved by the city;

(2) All permits required by applicable building, electrical, fire, plumbing, and mechanical codes are obtained; and

(3) All licenses required for the operation of the temporary use are obtained.

Sec. 21-5325. Standards

(1) No temporary use shall violate any applicable conditions of approval that apply to the principal use and zoning for the site.

(2) A temporary use shall comply with all other standards and requirements of the zone district in which the temporary use is proposed. In the event that a PUD zoning district specifically regulates temporary uses, the PUD zoning shall control.

(3) Temporary uses or structures shall not be conducted or located within existing vegetated buffers, designated setbacks, required parking areas,

public rights-of-way, designated easements, or any areas that interfere with any sight distance triangle.

(4) Temporary structures shall be constructed to promote safety and health. Materials which may be used on the exterior surface of any temporary stand or structure shall include, but are not limited to, freshly painted plywood or masonite, non-rusted galvanized steel sheathing, aluminum, fiberglass or polyfilm. Materials which shall not be used for the exterior surface include, but are not limited to, paper, cardboard, old unpainted lumber or masonite, and rusted metal sheathing.

(5) Temporary structures and the property on which any temporary structure or use is permitted shall be maintained in good condition during the time of its use. Vegetation shall be regularly mowed. Trash and rubbish barrels/receptacles shall be provided and regularly removed from the site.

(6) Only temporary signs erected in accordance with article VIII shall be permitted and such signs shall be removed at the conclusion of the use.

(7) Upon conclusion of the temporary use, the site shall be cleaned, all evidence of the use(s) removed, re-vegetated, and left in a condition that minimizes adverse impacts to the site itself and to surrounding properties.

(8) Temporary structures used in conjunction with temporary uses shall be removed not more than seven calendar days after the event is closed. Temporary stands, motor vehicles, and trailers shall be removed on the date of termination of the permit unless a specific date is approved in the application.

(9) Except for temporary structures removed in compliance with paragraph 8 of this section, all set-up, clean-up, dismantling, and removal of the temporary use must be conducted during the permit period.

B. SUPPLEMENTARY PROVISIONS

Sec. 21-5330. Batch Plants

(1) **Definition.** The term batch plant refers to cement, concrete, and asphalt mixing areas conducted at construction sites.

(2) **Standards.** In addition to the standards contained in section 21-5235, the following special provisions apply to all batch plants:

(a) The hours of operation shall be limited to the hours specified on the approved permit.

(b) The use shall be setback at least 300 feet from any residential structure.

(c) Vehicle use areas, material storage areas, and structures shall be setback at least 100 feet from the property boundary.

(d) The permit holder shall control dust, dirt, and any other debris from migrating from the site on to other property. Inability to effectively mitigate dust will result in revocation of the permit.

(e) Due to the potential magnitude of the use, the city engineer may add additional standards regarding trucking routes and the size of loads to protect the general welfare of the public.

(3) **Permit Period**. A temporary use permit for a batch plant shall be valid for six months. This period may be extended for one additional six-month period, for good cause shown, upon approval of a written request, submitted to the director 30 days prior to the expiration of the permit.

Sec. 21-5335. Charitable Collection Devices

(1) **Definition.** The term "charitable collection device" means roll-off containers, semi-trailers, non-permanent drop-off containers, or similar devices used for the collection of donated items.

(2) **Permit Period.** A temporary use permit for charitable collection devices shall be valid for 60 days. This period may be extended for one additional 30-day period upon approval of a written request submitted to the director 7 days prior to the expiration of the permit. In no event, however, shall an extension be granted which would allow the temporary structure to remain on the site for more than 90 days.

Paragraph (1) amended by Ord. 1887, July 2012

Sec. 21-5340. Farmers' Markets

(1) **Definition.** The term "farmers' market" means the seasonal offering for sale of fresh agricultural products directly to the consumer in an open-air market.

(2) **Standards.** In addition to the standards contained in section 21-5325 above, the following special provisions apply to all farmers' markets:

(a) Goods may be sold or displayed from a motor vehicle or trailer.

(b) The hours of operation shall be limited to the hours specified on the approved permit. All set-up and clean-up shall be completed within the hours of operation.

(3) **Permit Period.** A temporary use permit for a farmers' market shall be valid from May 15 to October 31 (the summer season) and shall entitle the

permit holder to conduct the market in either of the following manners, as specified in the permit:

(a) Weekly. The market may be conducted not more than one day per week per permitted site; or

(b) Monthly. The market may be held for up to three consecutive days at the same site, provided that no other farmers' market has been conducted by the permit holder at that site during the preceding 30-day period.

(c) The director may extend the summer season based on seasonal conditions.

Sec. 21-5345. Mobile Office Structure

(1) **Defined**. The term "mobile office structure" means a factory-fabricated, transportable building that is designed to arrive at a site ready for occupancy, except for minor unpacking, anchoring, and connection to utilities, and designed for removal to and installation at other sites.

(2) **Restricted Use**. A mobile office structure may be placed on property for the following limited purposes:

(a) Expansion space for an existing permitted principal use, provided that the city has issued a building permit for the permanent expansion of the existing facility;

(b) Temporary offices for construction and security personnel during the construction of a development for which the city has issued a building permit;

(c) Temporary quarters for a nonresidential use when the permanent building has been destroyed by fire or other physical catastrophe, provided that a building permit for the permanent facility is obtained within 90 days after approval of the temporary building. The director may approve a written request for an extension of an additional 90 days for good cause shown.

(d) One temporary office per site to include, but not limited to, the following uses: hiring, membership solicitation, and other general office uses.

(3) **Standards.** In addition to the standards listed in section 21-5235 the following special provisions apply to all temporary mobile structures:

(a) Parking spaces shall be provided on the lot in a number sufficient to meet the requirements set forth for the use in article VII (Parking).

(b) A mobile office structure shall not be used as any type of dwelling.

(c) All mobile office structures shall have at least ten feet on all sides for clearance.

(d) Temporary chain-link fencing up to six-feet high may be approved for a period of time not to exceed six months.

(e) The number of temporary buildings shall be limited to one per application, in addition to those already allowed by this section.

(f) Such temporary buildings shall not be placed on the property prior to the issuance of a building permit for a permanent facility.

(g) If more than three mobile office structures are required, the applicant may request the board of adjustment to issue a use-by-permit to allow for additional temporary offices.

(4) **Permit Period**. A temporary use permit for a mobile office structure shall be valid for six months or until a certificate of occupancy is issued, whichever occurs first. The 6-month period may be extended for one additional 6-month period, for good cause shown, upon approval of a written request, submitted to the director 30 days prior to the expiration of the permit.

Sec. 21-5350. Mobile Storage Containers

(1) **Definition.** The term "temporary mobile storage container" means a sealed, contained mini-mobile storage used for the purpose of temporary storage of goods and materials, excluding roll-off trash collection containers.

(2) **Standards.** In addition to the standards contained in section 21-5235, storage containers shall generally be located in on-site parking areas or spaces.

(3) **Permit Period.**

(a) Non-Residential Properties. A temporary use permit for a mobile storage container issued in conjunction with an approved building permit for a permanent structure (e.g., remodel of structure requires temporary storage of contents) shall be valid for 30 days. This period may be extended for 1 additional 30-day period, upon approval of a written request, submitted to the director 15 days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the

community at-large. Mobile storage containers sited beyond this time frame shall be classified as outdoor storage.

(b) Residential Properties. A temporary use permit for a mobile storage container issued in conjunction with an approved building permit for a permanent structure (e.g., remodel of structure requires temporary storage of contents) or for estate settlement shall be valid for 30 days. No renewals will be allowed.

Sec. 21-5355. Natural Disaster and Emergency Recovery/Clean-Up

Occasionally, local, state, and federal emergencies require the implementation of temporary uses and structures. When determined by the government, temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the recovery/clean-up effort. No temporary use permit or other review shall be required.

Sec. 21-5360. Organized Events

(1) **Definition.** The term "organized event" means any organized activity, specifically including, but not limited to, a circus, carnival, fair, flea market, special celebration, or other temporary activity not identified above which reasonably may be expected to attract more than 50 persons at any one time, or which otherwise may reasonably be expected to increase the risk of:

(a) Damage to public or private property, beyond normal wear and tear;

(b) Injury to persons;

(c) Public or private disturbances or nuisances;

(d) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;

(e) Significant additional police, fire, trash removal, maintenance, or other public services demands; or

(f) Other significant adverse effects upon the public health, safety, or welfare.

(2) **Exclusions.** The term organized event shall not include any activity sponsored in whole or in part by the city or another political subdivision of the State of Colorado or any organized activities conducted at public sites or public facilities typically intended and used for such activities. Examples of such exempt activities include, but are not necessarily limited to: sporting events such as golf, soccer, softball, and baseball

tournaments conducted on courses or fields intended and used for such activities; park shelter rental, wedding services conducted at reception halls or similar facilities; funeral services conducted at funeral homes or cemeteries; or religious services, wedding services, and funeral services conducted at places of worship. Furthermore, the term organized event shall not include activities occurring within or upon the grounds of a private residence, or upon the common areas of multi-family residential development.

(3) **Standards.** Given the variety of circumstances which fall into this permit category, the director may impose, in addition to the standards contained in section 21-5325, any standard or requirement deemed reasonable to protect the health, safety, and welfare of the participants and the public.

(4) **Number of Permits**. Any organized event that involves more than one activity or site, or which is held over a period of more than one day, need only obtain one permit, provided that the application specifies each activity, site, and dates.

(5) **Hours of Operation.** The hours of operation of any organized event should be specified in the permit. In the event the hours of operation are not specified, the ending time for such event shall be 10 p.m.

(6) **Permit Period**. A temporary use permit for an event may be approved for a period of up to 14 days at the discretion of the director. This period may be extended for 1 additional 14-day period for good cause shown, upon approval of a written request submitted to the director 7 days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impacts on surrounding property, public facilities and services, or the community at-large.

(7) **Notification to Nearby Property Owners.** Any person who intends to hold an event that meets three or more of the criteria listed in this paragraph shall make a reasonable attempt to notify every person who owns property within 660 feet of the proposed event. Notification shall be provided in a manner that is satisfactory to the city.

(a) The event will occur on more than one calendar day;

(b) Any part of the event will occur after 8 p.m. or before 8 a.m.;

(c) Attendance at the event is reasonably anticipated to exceed 200 people;

(d) Alcoholic beverages will be served during the event;

(e) Live or amplified sound will occur during the event.

Paragraph (7) added by Ord. 1854, April 2011

Sec. 21-5365. Outdoor Sales Event

(1) **Definition.** The term outdoor sales event means the outdoor sale of goods for a short-term event and includes tent and parking lot sales, hail damage repair, sidewalk sales, and similar uses, but specifically excludes residential garage or yard sales, roadside stands, flea markets, and farmers' markets.

(2) **Standards.** In addition to the standards contained in section 21-5325, the following special provisions shall apply to all outdoor sales events:

(a) Outdoor sales events shall be conducted only in commercial or industrial districts.

(b) The site shall contain an area that is not actively used that would support the proposed temporary sale of goods without encroaching into or creating a negative impact on existing buffers, open space, landscaping, traffic movements, or parking space availability.

(c) The display and/or sale of goods, products, and/or services shall not occur within 100 feet of a residential district.

(d) Off-street parking shall be adequate to accommodate the parking needs for the proposed sale in conformance with article VII (Parking).

(e) The hours of operation of the outdoor sales event shall be between sunrise and sunset, or the same as the hours of operation of the principal use, whichever is more restrictive.

(f) The retail sales of bulk household goods, such as furniture, carpets, art work/paintings, or similar items, or the sale of prepared or processed food products shall not be permitted.

(g) No more than three outdoor sales event permits may be issued to the same applicant for the same property in any calendar year.

(3) **Permit Period**.

A temporary use permit for an outdoor sales event shall be valid for the period of time determined by the director. In no event, however, shall the permit period exceed14 days.

Sec. 21-5370. Outdoor Seasonal Sales

(1) **Definition.** The term "outdoor seasonal sales" refers to tent and parking lot sales consisting of trees, shrubs, plants, and other seasonal garden supplies. In addition, lawn equipment, bicycles, and other similar playground equipment shall be regulated under this section. This section shall not apply to residential garage or yard sales, roadside stands, flea markets, or farmers' markets.

(2) **Permit Period**.

(a) Plant and garden centers. A temporary use permit for a plant and garden center shall be valid for a period of six months. No extensions shall be permitted.

(b) Other outdoor seasonal sales. The permit period for all other outdoor seasonal sales shall be determined by the director based on community need. In no event however, shall such uses be permitted for more than six months and no extensions shall be permitted.

Sec. 21-5375. Outdoor Seasonal Holiday Sales

(1) **Definition.** The term "outdoor holiday seasonal sale" means the use of a site for Christmas tree lots, pumpkin patches, and other similar holiday uses.

(2) **Standards.** In addition to the standards contained in section 21-5325, the following special provisions shall apply to all outdoor holiday season sales:

(a) The site shall contain an area that is not actively used that would support the proposed temporary sale of goods without encroaching into or creating a negative impact on existing buffers, open space, landscaping, traffic movements, or parking space availability.

(b) The display or sale of goods, products, or services shall not occur within 100 feet of a residential lot.

(c) Off-street parking shall be adequate to accommodate the proposed sale of goods in conformance with article VII (Parking).

(d) The hours of operation of the outdoor holiday seasonal sales shall be between 7:30 a.m. and 10 p.m., or the same as the hours of operation of the principal use, whichever is more restrictive.

(e) The parking of trailers for office or watchman purposes must be approved in writing by the Tri-County Health Department.

(3) **Permit Period.**

(a) Christmas tree lots. A temporary use permit for a Christmas tree lot shall be valid for the period from November 15 to January 4, including set-up and tear-down. No extensions shall be permitted.

(b) Pumpkin sales. A temporary use permit for pumpkin sales shall be valid for the period from September 15 to November 5, including set-up and tear-down. No extensions shall be permitted.

(c) Other outdoor holiday seasonal sales. The permit period for all other outdoor holiday seasonal sales shall be determined by the director based on community need. In no event, however, shall such uses be permitted for more than 60 days, and no extensions shall be permitted.

Sec. 21-5380. Real Estate Sales Offices

(1) **Definition.** The term "temporary real estate sales office" means the use of an office or model home for the purpose of selling or leasing new homes incidental to a new development.

(2) **Standards.** In addition to the standards contained in section 21-5325, the following special provisions shall apply to all temporary real estate sales offices:

(a) The temporary real estate sales office shall be located on a permitted residential lot or within a multi-family development that was approved by the city as part of a residential development, or within an approved nonresidential development.

(b) Parking spaces shall be provided in a number sufficient to meet the requirements set forth for offices in article VII. An accessible paved parking area for visitors shall be provided if the director determines on-street parking is not sufficient.

(c) Open-style, trap-type fencing up to 42-inches high may be used for a temporary period of time, if approved by the director.

(d) Upon expiration of the permit for a temporary real estate sales office, the structure shall be removed or converted into, or replaced with, a permanent residential use.

(3) **Permit Period.** A temporary use permit for a temporary real estate sales office shall be valid for a period of up to 12 months. This period may be extended for additional 12-month periods, for good cause shown, upon approval of a written request, submitted to the director 30 days prior to the expiration of the permit.

Sec. 21-5385. Roadside Produce Stands

(1) **Definition.** The term "roadside produce stand" means the use of property for the purpose of selling seasonal goods which were raised upon the premises.

(2) **Standards.** In addition to the standards contained in section 21-5325, the following special provisions apply to all roadside produce stands:

(a) No structure shall be situated, and no sale of goods shall occur, less than 50 feet from the public right-of-way.

(b) The roadside produce stand shall be accessed via either a gravel, recycled asphalt, or paved parking lot.

(c) The hours of operation shall be between the hours of 7 a.m. and 7 p.m.

(d) Parking for the stand shall not block or be located within any right-of-way or public sidewalk. At least 3 off-street parking spaces shall be provided per 200-square feet of stand area.

(3) **Permit Period.** A temporary use permit for a roadside produce stand shall be valid for a period of three months. This period may be extended for one additional 3-month period, for good cause shown, upon approval of a written request, submitted to the director 30 days prior to the expiration of the permit. In no event however, shall the temporary continue on the site for more than six months.

DIVISION 4: ACCESSORY USES AND ACCESSORY STRUCTURES

Sec. 21-5400. Accessory Uses and Accessory Structures Table

The Accessory Uses and Accessory Structures Table (table V-5 below) establishes the districts in which a particular use or structure may be allowed as accessory to the principal use or structure. An "R" indicates the accessory use or structure is allowed in the district as a use-by-right. A "P" means the accessory use or structure is allowed as a use-by-permit. Finally, a blank cell means that the accessory use or structure is prohibited in that district.

Table V-5 - Accessory Uses and Accessory Structures Table

	Use/Structure:	R-1	R-2	R-3	R-4	MHP	MU-1	C-1	C-2	C-3	I-1	I-2	I-3	AG	PUBLIC
Car Storage	Detached Garage	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Attached Garage	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Attached Carport	R	R	R		R		R	R	R	R	R	R	R	R
	Accessory Parking Structures			R	R	R	R	R	R	R	R	R	R	R	R
Sheds	Storage Sheds	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Playhouses, Pethouses, Etc.	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Landscape Enhancements	Uncovered: Porches, Decks, Flatwork, Patios, Etc., Less Than 30 Inches Above-Grade	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Covered: Porches, Decks, Gazebos, Shade Structure, Patios, or Uncovered if 30 Inches or More Above-Grade	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Decorative Windmills, Arbors, and Other Unenclosed Decorative Accessory Structures	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Flagpoles	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Recreational	Swimming Pools (Above and Below Ground), Pool Houses, Pool Equipment Rooms, Hot Tubs, and Hot Tub Houses	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Hard Surfaced Outdoor Recreation Courts	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Picnic Shelters	R	R	R	R	R	R	R	R	R	R	R	R	R	R
	Public or Private Recreation Structures, Including Restrooms, Picnic Shelters, Band Shells, Amphitheatres, Etc.			R	R		R	P	P	P	P				R
AG & Animal	Greenhouses	R	R	P	P	P	P	R	R	R	R	R	R	R	R
	Barns and Corrals													R	P
	Horses and Livestock													R	P
	Dog Run	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Living Quarters	Night Watchman's Quarters									P	P	P	P	P	P
	Night Watchman's Quarters, Religious Institutions	R	R	R	R	R	R	R	R	R	R				

	Use/Structure:	R-1	R-2	R-3	R-4	MHP	MU-1	C-1	C-2	C-3	I-1	I-2	I-3	AG	PUBLIC
Miscellaneous	Guard House										R	R	R		R
	Single-Bay Car Wash Accessory to a Primary Use								R	R	R	R	R		R
	Satellite Dishes	R	R	R	R	R	R	R	R	R	R	R	R	R	R

Table V-5 amended by Ord. 1854, April 2011
Table V-5 amended by Ord. 1887, July 2012

Sec. 21-5410. Unlisted Uses and Structures

In the event that a proposed use or structure is not specifically listed in table V-5, the director may determine that such use or structure is allowable and may impose any restriction deemed reasonably necessary to ensure that the intent and purpose of this land development code are not negatively impacted.

Sec. 21-5420. Standards

(1) **Incidental to Principal Use.** The accessory use or structure shall be clearly incidental and customarily found in connection with the principal use. No accessory use or structure is permitted on a lot or parcel without a principal use or structure.

(2) **Commercial Use Restricted.** No accessory structure on a residentially zoned property shall be used for any commercial purpose.

(3) **Lot Restriction.** The accessory uses or structures shall be conducted and/or located on the same lot and within the same zone district as the principal use.

(4) **Unity of Ownership.** There shall be unity of ownership and unity of user between the principal use and accessory use.

(5) **Time of Establishment.** No accessory use shall be conducted and no accessory structure shall be erected on a lot until after all required permits and approval of the principal use or activity has been obtained.

(6) **Nonconforming Use.** No new accessory structures shall be permitted on a lot with a legal non-conforming use.

(7) **Accessory Living Space Restricted.** Except as expressly allowed, no accessory structure shall be used to provide any type of living area normally associated with a dwelling unit, including without limitation, spaces devoted to sleeping, permanent dining or cooking areas, and greater than a half bathroom.

(8) **Motor Vehicles and Trailers.** The use of any motor vehicle, trailer, mini-mobile storage container, or shipping container as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted, shall be prohibited in all zoning districts except for:

(a) The sale of goods or merchandise at a city-approved or sponsored event;

(b) The use of a motor vehicle, trailer, or shipping or storage container in connection with an approved recycling operation;

(c) The use of a trailer or shipping or storage container in conjunction with construction authorized by a valid building, grading, or construction permit; or

(d) The use of a trailer, shipping, or storage container for the temporary loading and unloading of goods, provided that no individual trailer or container is in place longer than 72 hours.

(9) **Mobile Homes and Recreational Vehicles.** No mobile home or recreational vehicle (RV) shall be used for accessory uses.

(10) **Sight Distance.** No accessory structure or use shall be located within a sight-distance triangle.

Paragraph (7) amended by Ord. 1854, April 2011
Paragraph (7) amended by Ord. 1887, July 2012

Sec. 21-5430. Location of Accessory Structures

(1) **City Easements.** No accessory structure shall be located within any platted or recorded easement of the city's, except as expressly agreed to in writing by the city. The applicant shall be responsible for correctly identifying easements and their ownership on the site plan provided with the building permit for the accessory structure.

(2) **Easements Not Belonging to the City**. The applicant and property owner shall be responsible for any accessory structures placed within an easement.

Section amended by Ord. 1887, July 2012

Sec. 21-5440. Number of Accessory Structures

Except when a PUD Zone Document specifically regulates the number of accessory structures permitted within the PUD, the number of accessory structures shall comply with the provisions of this section unless a variance is granted by the board of adjustment.

(1) **Principal Single-Family Detached or Single-Family Attached (Duplex) Use.** No more than three accessory structures shall be permitted on a single lot. Attached garages and attached carports shall not count toward this maximum.

(2) **Principal Multi-Family Use.** No more than three accessory structures shall be permitted on a single lot. Attached and detached garages and attached carports shall not count toward this maximum.

(3) **Principal Commercial Use.** No more than one accessory structure shall be permitted on a single lot.

(4) **Principal Industrial Use.** No more than three accessory structures shall be permitted on a single lot.

(5) **Principal Agricultural Use.** No more than five accessory structures shall be permitted on a single lot.

(6) **Public Zone District.** There is no maximum number of accessory structures allowed in any lot zoned Public.

(7) **All Other Principal Uses.** No more than one accessory structure shall be permitted on a single lot.

Sec. 21-5450. Bulk Standards for Accessory Structures and Uses Table

All accessory structures and uses shall be subject to the specific regulations set forth in the Bulk Standards for Accessory Structures and Uses table (table V-6). Such specific regulations shall be in addition to the regulations that apply to principal uses and structures in each district. In cases of any conflict between the standards of table V-6 and other requirements of this land development code, the standards contained in table V-6 shall control.

Table V-6. Summary Table of Bulk Standards and Additional Regulations for Accessory Structures

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT RESTRICTIONS	ADDITIONAL REGULATIONS
DETACHED GARAGES	Residential Districts: • Front and side on street setback – can be no farther forward than the front facade (or side façade if side on street), but in no case closer than 20 feet from the right-of-way. • 5-foot side setback • 5-foot rear setback All Other Zone Districts: Required principal structure setbacks shall apply.	Residential Districts • If the first floor area of the home is less than 864-sq.ft., then in no case can the garage exceed 864-sq.ft. • If the first floor area of the home is greater than 864-sq.ft., the maximum garage size may exceed 864-sq.ft., up to 15% of the lot area, but in no case can the garage square footage exceed the first floor area of the home. • 15-foot maximum height All Other Zone Districts: No size limitation.	Allowed only for storage of vehicles used in conjunction with the principal use. Any garage serviced by a right-of-way shall be provided access by a driveway consisting of concrete, asphalt, or similar hard-surface material; or other materials approved by the city engineer. The color, style and type of materials used in the construction of the exterior portion of the garage must match those of the principal structure. The use of prefabricated metal structures or pole barns, or the use of corrugated metal, fiberglass, or similar panels is not allowed. For a garage to match the principal structure, the following criteria shall apply: • The roofline, the type of roofing material, and the color of the roofing material shall be the same or similar to the principal structure. If the principal structure has a flat roof, the garage may be allowed to have a pitched roof if city staff determines that it is aesthetically harmonious with the principal structure. • Attached Garage: All sides shall be a color and material that is the same or similar to the principal structure. Where the principal structure is all or partially of brick, stone, or stucco those exterior portions of the attached garage facing a public right-of-way shall be covered with brick, stone, or stucco in no less than the same proportion as the principal structure and shall wrap the brick, stone, or stucco a minimum of 3 feet on side elevations. • Detached Garage: All sides shall be a color and material that is the same or similar to the principal structure. Where the principal structure is all or partially of brick, stone, or stucco those exterior portions of the detached garage (regardless of
ATTACHED GARAGES	Residential Districts: • Front and side on street setback – can be no farther forward than the front façade (or side facade if side on street), but in no case closer than 20 feet from the right-of-way. • 5-foot side setback • 5-foot rear setback All Other Zone Districts: Required principal structure setbacks shall apply.		

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT RESTRICTIONS	ADDITIONAL REGULATIONS
ATTACHED GARAGES			front, side, or rear) that face a public right-of-way and are not obstructed from view by items such as the primary structure, accessory structures, or fencing shall be covered with a base that is a minimum of 3 feet of brick, stone, or stucco that is the same or similar to the principal structure and shall provide a masonry wrap. • Any proposed trim style and color shall be the same or similar to the trim on the principal structures.

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT RESTRICTIONS	ADDITIONAL REGULATIONS
ATTACHED CARPORTS	Front: Can be no farther forward than the front façade, but in no case closer than 20 feet from the right-of-way. Side on Street: If side loaded, can be no closer to the street than the side façade, but in no case closer than 20 feet from the right-of-way. If front loaded, principal structure setbacks for side on street shall apply. 5-foot side setback. 5-foot rear setback.	Single-Family Detached & Attached Residential: • 400-sq.ft. maximum size. • 15-feet maximum height. All other Land Uses: Carports are not allowed.	Detached carports are prohibited. Allowed only for storage of vehicles used in conjunction with the principal use. Any carport serviced by a right-of-way shall be provided access by a driveway consisting of concrete, asphalt, or similar hard-surface material. The color, style and type of materials used in the construction of the exterior portion of the carport must match those of the principal structure. The use of prefabricated metal structures or pole barns, or the use of corrugated metal, fiberglass, or similar panels is not allowed. For a carport to match the principal structure, the following criteria shall apply: • The roofline, the type of roofing material, and the color of the roofing material shall be the same or similar to the principal structure. If the principal structure has a flat roof, the carport may be allowed to have a pitched roof if approved by the director. • Any painted surface shall be the same color as the principal structure or trim. • The supports are not required to match the principal structure. • If the carport has a solid side, garage architectural requirements shall apply.
ACCESSORY PARKING STRUCTURE	Front: Prohibited. Side on Street: May be located no closer to the street than the front façade of the nearest primary structure, but in no case closer than 20 feet from the right of way. 5-foot side setback. 5-foot rear setback.	Residential Areas: 15-feet maximum height. Non-residential Areas: 25-feet maximum height	Allowed only for the storage of operable vehicles used in conjunction with the principal use. Any accessory parking structure serviced by a right-of-way shall be provided access by a driveway consisting of concrete, asphalt, or similar hard-surface material. The color, style, and type of materials used in the construction of the exterior portions of an accessory parking structure shall match those of the principal structure. The use of prefabricated metal structures, corrugated metal,

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT RESTRICTIONS	ADDITIONAL REGULATIONS
ACCESSORY PARKING STRUCTURE			fiberglass, or similar panels is not allowed. For an accessory parking structure to match the principal structure, the follow criteria shall apply: • The roofline, the type of roofing material, and the color of the roofing material shall be the same or similar to the principal structure. If the principal structure has a flat roof, the accessory parking structure may be allowed to have a pitched roof if approved by the Director. • Any painted surface shall be the same, similar, or complementary color as the principal structure. • Any enclosed sides of the accessory parking structure shall meet the architectural requirements for a garage. Nothing in this section shall supersede any garage requirements for any underlying zone district. Accessory parking structures may be used in addition to and not in place of any garage requirement. Accessory parking structures shall only be used to cover permanent and approved parking spaces. Accessory parking structures shall be constructed as one structure. At no time shall a series of structures be attached to one another to create an accessory parking structure.
STORAGE SHEDS	5-foot side setback. 5-foot rear setback. Prohibited in a front yard and side on street yard.	200-sq.ft., total of all storage, in residential districts. 200-sq.ft., total of all storage, in commercial districts. 15-foot maximum height, except in an industrial district where height cannot exceed that of the existing principal structure.	Metal containers and portable-on-demand storage containers are prohibited on property zoned or used for residential or commercial purposes. Storage sheds in commercial districts must incorporate the enclosed trash dumpster area as part of the shed. The color, style, and materials must match the principal commercial structure.

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT RESTRICTIONS	ADDITIONAL REGULATIONS
UNCOVERED: DECKS, FLATWORK, PATIOS	Two-foot setback on side or rear property line.	Less than 30 inches above grade.	Decks, poured, concrete, and asphalt require a building permit. If required by ADA, the structure may encroach into the setback. Ramps, steps, and landings (not to exceed 4 feet x 4 feet) that provide access from the sidewalk to the first floor building entries shall be excluded from these setback requirements.
COVERED: PORCHES, DECKS, TERRACES, GAZEBOS, SHADE STRUCTURES, AND PATIOS, OR UNCOVERED IF IT IS EQUAL TO OR GREATER THAN 30 INCHES IN HEIGHT ABOVE GRADE	For front setback, see individual zone district regulations. If not specified, then front setback shall be the same as the principal structure. 5-foot side setback. 10-foot rear setback.	Height of covering cannot exceed roofline of a single-story home. 15-foot maximum height for homes greater than single-story. Decks with structural support from the ground may not exceed the height of the second story floor plate. (Garden level is not counted as first floor.)	Ramps, steps, and landings (not to exceed 4 feet x 4 feet) that provide access from the sidewalk to the first floor building entries shall be excluded from these setback requirements.
FLAGPOLES	Poles attached to residential structures are exempt from these regulations. In residential districts, pole must be setback from all property lines equal to height of the pole. In all other districts, refer to the sign code regulations.	15-foot maximum height in single-family residential districts. All other districts refer to sign code.	Maximum Flag Size: Refer to sign code

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SWIMMING POOLS (ABOVE AND BELOW GROUND), POOL HOUSES, POOL EQUIPMENT ROOMS, HOT TUBS AND HOT TUB HOUSES	Not permitted in a front yard.		Fencing around structure may be required. Consult building code for specific details.
OUTDOOR RECREATIONAL COURTS (BASKETBALL, TENNIS)	3 feet from all property lines.	Fencing immediately around a court may not exceed 12 feet in height.	See lighting regulations for additional regulations. Court area must be paved.
GREENHOUSES	5-foot side setback. 5-foot rear setback. Not permitted in a front yard.	Cannot exceed 200-sq.ft. for residential. No maximum for non-residential. Cannot exceed 15 feet in height.	
BARNS AND STABLES	60-foot front setback. 25-foot side setback. 25-foot rear setback		Materials must be of a commercial quality. Fiberglass and plywood are prohibited.
HORSE AND LIVESTOCK PENS	60-foot front setback. 25-foot side setback. 25-foot rear setback. 50 feet from any existing residentially used structure on adjacent property.		Fencing regulations for underlying zone district shall apply.

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT RESTRICTIONS	ADDITIONAL REGULATIONS
NIGHT WATCHMAN'S QUARTERS - ALL	Must comply with R-1 standards for setbacks.	Must comply with R-1 standards for setbacks.	Only one residential caretaker unit shall be permitted per property. Shall be used only to house the caretaker of the principal use, plus immediate family. Mobile homes, RVs, and buses shall not be used as living quarters.
GUESTHOUSE/CARRIAGE HOUSE	See zone district or PUD Zone Document where allowed.		
SATELLITE DISHES	Must be in rear yard and screened if over one meter (39 inches) in diameter and visible from any right-of-way or park, trail, or open space.		
CLOTHESLINES AND CLOTHESLINE POLES	Allowed in side and rear yard only.		
DRIVEWAYS	Two feet from side property line, unless shared driveway condition exists.		
DUMPSTERS, TRASH CONTAINERS	Permitted in side and rear yards only.		

Table amended by Ord. 1887, July 2012

DIVISION 5: NON-CONFORMING USES AND STRUCTURES

Sec. 21-5500. General Provisions

(1) A nonconformity existing at the time of the adoption of this land development code, or created by the adoption of this land development code, may continue in the same manner as it existed on the effective date of this land development code, except as otherwise provided herein.

(2) The owner of property shall bear the burden of establishing the existence of any claimed legal nonconformity.

(3) Changes of tenancy, ownership or management of an existing nonconformity shall be permitted, and in such cases the nonconformity shall continue to be subject to the standards of this land development code.

(4) Repairs and normal maintenance required to keep any nonconformity in a safe condition shall be permitted.

(5) No use that is accessory to a principal nonconforming use shall continue after the principal nonconforming use ceases to exist.

(6) No existing use or structure shall be deemed nonconforming solely because of the lack of off-street parking required by this land development code.

Sec. 21-5510. Nonconforming Structures

(1) **Alterations and Expansions.** A nonconforming structure shall not be altered or expanded unless such alteration or expansion complies with the provisions of this land development code. Expansions of the structure that comply with the applicable dimensional standards shall be permitted and shall not require a variance.

(2) **Restoration.** A nonconforming structure that is destroyed or damaged to the extent of more than 60 percent of its replacement value shall not be restored except in compliance with the requirements of this land development code. All such restoration work shall be commenced within 180 days, in accordance with the building permit issued by the city and all applicable city codes.

(3) **Relocation.** No person shall move a nonconforming structure to another parcel unless the structure and its location on the new parcel comply with the requirements of the zoning district in which it is relocated.

(4) **Reversion Prohibited.** If a nonconforming structure becomes conforming, it shall not be changed back to a nonconforming structure.

Sec. 21-5520. Nonconforming Use of Land

(1) **Expansion.** A nonconforming use of land shall not be enlarged, expanded, extended, increased nor moved to occupy an area of land which was not occupied before the adoption of this land development code.

(2) **Abandonment.** If a nonconforming use is discontinued for a period of 180 days or more, any future use of the land shall conform to the standards of the district in which it is located.

(3) **Additional Uses.** No additional conforming uses are allowed until all nonconforming uses are removed or terminated.

Sec. 21-5530. Nonconforming Use of Structures

(1) **Expansion**. A nonconforming use of a structure shall not be enlarged, expanded, extended, increased, or moved to occupy an area of the structure that was not occupied before the adoption of this land development code.

(2) **Accessory Uses and Structures Restricted.** No additional accessory use, building, or structure shall be established on the site of a non-conforming use.

(3) **Change in Use.** A nonconforming use may be changed to a different nonconforming use only if the board of adjustment determines that the new use will result in a lesser degree of nonconformity than the current use and approves the change. After any such change, the use may not revert to the original nonconforming use nor may it be changed to any other use except in compliance with the terms of this section.

(4) **Abandonment.** If a nonconforming use is discontinued for a period of 180 days or more, any future use of the structure shall conform to the standards of the district in which it is located.

(5) **Restoration.** If a conforming structure containing a nonconforming use is damaged to the extent of more than 60 percent of its replacement value, all future use of the rebuilt or restored structure shall be a conforming use.

(6) **Alteration and Repair.** If a structure containing a nonconforming use is repaired or altered at a cost that exceeds 60 percent of its value, all future use of the structure shall be a conforming use.

Sec. 21-5540. Nonconforming Lots

(1) **Use and Construction**. A nonconforming lot may be used for any purpose permitted in the zoning district in which it is located, as long as all bulk standards of that district are met. Structures may be permitted on a nonconforming lot provided the lot does not have continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the zoning district in which it is located for area, or width, or frontage, provided however, that the requirements of the zoning district for minimum setback dimensions shall be met unless a variance to said requirements has been granted by the board of adjustment.

(2) **Enlargements Allowed.** Structures located on nonconforming lots may be enlarged, expanded, or extended, provided that such action does not increase nonconformities with applicable setbacks, or cause a new area of nonconformity.

Sec. 21-5550. Removal of Hazards

Any nonconforming structure or use that is deemed by the building official to be a detriment to the public health, safety, or general welfare shall be ordered to be removed or discontinued within such time period as the building official may deem reasonable. Upon a failure to comply with the building official's order, the city may take such steps as are necessary to remove such structure, or discontinue such use, and assess the cost thereof against the property owner.