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TITLE 9

Land Use Code

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Land Use Code

Chapter 6 Use Standards¹

9-6-1. Schedule of Permitted Land Uses.

The schedule shows the uses which are permitted, conditionally permitted, prohibited or which may be permitted through use review pursuant to section 9-2-15, "Use Review," B.R.C. 1981.

- (a) Explanation of Table Abbreviations: The abbreviations used in table 6-1 of this section have the following meanings:
- (1) Allowed Uses: An "A" in a cell indicates that the use type is permitted by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this title.
 - (2) Conditional Uses: A "C" in a cell indicates that the use type will be reviewed in accordance with the procedures established in section 9-2-2, "Administrative Review Procedures," B.R.C. 1981. Conditional use applications shall also meet the additional standards set forth in sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards," or other sections of this title.
 - (3) Use Review Uses: A "U" in a cell indicates that the use type will be reviewed in accordance with the procedures established in section 9-2-15, "Use Review," B.R.C. 1981. Use review applications shall also meet the additional standards set forth in sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards."
 - (4) Ground Floor Restricted Uses: A "G" in a cell indicates that the use type is permitted by right in the respective zoning district, so long as it is located above or below the ground floor, otherwise by use review only.
 - (5) Residential Restricted Uses - M: An "M" in a cell indicates the use is permitted provided at least fifty percent of the floor area is for residential use and the nonresidential use is less than seven thousand square feet per building, otherwise by use review only.
 - (6) Residential Restricted Uses - N: An "N" in a cell indicates the use is permitted provided at least fifty percent of the floor area is for nonresidential use, otherwise by use review only.
 - (7) Prohibited Uses: An asterisk symbol ("*") in a cell indicates that the use type is prohibited in the zoning district.
 - (8) Additional Regulations: There may be additional regulations that are applicable to a specific use type. The existence of these specific use regulations is noted through a reference in the last column of the use table entitled "Specific Use." References refer to subsections of sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards." Such standards apply to all districts unless otherwise specified.
 - (9) n/a: Not applicable; more specific use applications apply.
- (b) Interpretation: The city manager may decide questions of interpretation as to which category uses not specifically listed are properly assigned to, based on precedents, similar situations and relative impacts. Upon written application, the BOZA may determine whether a specific use not listed in table 6-1 of this section is included in a specific use category. Any use not specifically listed in table 6-1 of this section is not allowed unless it is determined to be included in a use category as provided by this section.
- (c) Multiple Uses of Land Permitted: Permitted uses, conditional uses and uses permitted by use review may be located in the same building or upon the same lot.
- (d) Use Table:

¹ Adopted by Ordinance No. 7476.

TABLE 6-1: USE TABLE

Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard	
Residential Uses																												
Detached dwelling units	A	A	A	A	C	A	A	*	*	A	U	U	A	A	A	*	A	A	A	A	*	U	U	*	U	U	9-8-4	
Detached dwelling unit with two kitchens	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(c)	
Duplexes	*	A	A	A	C	A	A	*	*	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4	
Attached dwellings	*	A	A	A	C	A	A	C	*	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4	
Mobile home parks	*	U	U	*	U	U	*	*	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		
Townhouses	*	A	A	A	C	A	A	A	*	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4	
Live-work	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	A	*	*		
Cooperative housing units	C	C	C	C	C	C	C	*	*	C	C	C	*	*	*	*	*	*	*	*	*	U	U	*	*	*	9-6-3(b)	
Efficiency living units:																												
A. If <20% of total units	*	*	*	*	U	A	A	*	*	M	A	A	A	G	A	*	A	A	A	A	G	U	U	N	U	*		
B. If ≥20% of total units	*	*	*	*	*	U	A	*	*	U	A	A	U	U	U	*	U	U	U	U	U	U	U	U	U	U	*	
Accessory units:																												
A. Accessory dwelling unit	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(a)	
B. Owner's accessory unit	C	*	*	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)	
C. Limited accessory unit	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)	
Caretaker dwelling unit	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	A	A		
Group quarters:																												
A. Congregate care facilities	*	*	A	A	A	A	A	A	*	A	A	A	A	C	A	*	A	C	C	C	*	U	U	*	U	*	9-6-3(f)	
B. Custodial care	*	*	U	U	U	U	U	U	*	U	U	U	U	*	U	*	U	*	U	U	*	U	U	*	*	*		
C. Group homes	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	*	C	C	C	C	*	*	*	*	*	*	9-6-3(d)	
D. Residential care facilities	*	*	C	C	C	C	C	C	*	C	C	C	C	C	C	*	C	C	C	C	*	U	U	*	*	*	9-6-3(f)	

E. Fraternities, sororities and dormitories	*	*	*	*	*	A	A	*	*	U	*	*	A	G	A	*	A	*	*	A	*	U	U	*	*	*		
F. Boarding houses	*	*	U	U	A	A	A	*	*	U	A	A	A	G	A	*	A	*	*	A	*	U	U	*	*	*		
Home occupation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	C	C	C	9-6-3(e)	
Transitional housing	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-3(h)	
Dining and Entertainment																												
Art or craft studio space ≤2,000 square feet	*	U	U	U	U	U	U	U	*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	*	A	U	*	
Art or craft studio space >2,001 square feet	*	U	U	U	U	U	U	*	*	M	U	U	A	A	A	A	A	A	A	A	A	A	*	A	*	*		
Commercial kitchens and catering	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	U	U	A	A	A	A	*	*	
Indoor amusement establishment	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	A	U	U	U	*	*	*	*	*	*	*	
Museums	*	*	*	*	*	*	*	*	*	*	*	*	U	A	A	A	A	A	A	A	U	U	U	U	*	*		
Restaurants (general)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	C	C	C	C	n/a	n/a	9-6-5(b)	
Taverns (general)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	*	*	*	*	n/a	n/a		
Restaurants and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than 1/3 the floor area, and which close no later than 11:00 p.m.	*	*	*	*	*	U	A	*	*	A	A	A	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Restaurants and taverns no larger than 1,500 square feet in floor area, which may have meal service on an outside patio not more than 1/3 the floor area, and which close no later than 11:00	*	*	*	*	*	*	*	*	*	*	A	*	U	A	A	A	A	A	A	C	n/a	n/a	n/a	n/a	n/a	n/a	9-6-5(b)	

9-6-2. Specific Use Standards - General.

- (a) Purpose and Scope: The purpose of this chapter is to set forth additional requirements for specified uses of land. The requirements are intended to ensure that the use is compatible with the surrounding area. Conditional uses are those uses which are appropriate in a given zoning district if the applicable conditional use criteria have been satisfied. The city manager will determine after a review of all of the facts presented whether a proposal satisfies the conditional use criteria. Land uses which require a use review are those uses which may be acceptable if it is demonstrated that the use is suitable for the location in accordance with the procedures and criteria in section 9-2-15, "Use Review," B.R.C. 1981, and, when required, the standards and criteria in this chapter.
- (b) Application Requirements for Use Review and Conditional Uses: Applications for a conditional use will be reviewed in accordance with the procedures established in section 9-2-2, "Administrative Review Procedures," B.R.C. 1981. Use review applications will be reviewed in accordance with the procedures established in section 9-2-15, "Use Review," B.R.C. 1981.
- (c) Conditional Use Standards, Criteria, Review and Expiration:
 - (1) Standards and Criteria: Conditional uses shall be permitted if the use meets the criteria set forth in this chapter and other requirements of this code and any other ordinance of the city. The criteria set forth in this chapter cannot be met by using the variance process. Conditional uses shall not be located on nonstandard lots except as otherwise permitted.
 - (2) Review: It shall be the responsibility of the applicant to demonstrate to the city manager that the applicable criteria have been satisfied.
 - (3) Violations: No person shall violate a provision of a conditional use approval.
 - (4) Expiration: Any conditional use review approval which is not established within one year of its approval, discontinued for at least one year, or replaced by another use of land shall expire.

Ordinance Nos. 5679 (1994); 7117 (2001)

9-6-3. Specific Use Standards - Residential Uses.

- (a) Accessory Units:
 - (1) General Requirements: Three types of accessory units are permitted: Accessory Dwelling Units, Owner's Accessory Units and Limited Accessory Units. The following standards apply to all three types of accessory units:
 - (A) Standards:
 - (i) Owner Occupied: The owner of the property must reside in one of the permitted dwelling units on the site.
 - (ii) Occupancy Requirement: The occupancy of any accessory unit must not exceed two persons. The occupancy of the owner occupied dwelling unit does not exceed the occupancy requirements set forth in section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for one dwelling unit.
 - (iii) Additional Roomers Prohibited: The property is not also used for the renting of rooms pursuant to paragraph 9-8-5(a)(1), B.R.C. 1981.
 - (B) Application: All applicants shall apply on forms provided by the city manager showing how and in what manner the criteria of this subsection are met, provide a statement of current ownership and a legal description of the property, pay the application fee prescribed by section 4-20-43, "Development Application Fees," B.R.C. 1981, and submit plans as may be required by the city manager.
 - (C) Public Notice: Notice of the application shall be provided consistent with "Public Notice Type 4," as defined by subsection 9-4-3(a), B.R.C. 1981.

- (D) Review and Approval: All applications for accessory units shall be reviewed under the procedures of section 9-2-2, "Administrative Review Procedures." B.R.C. 1981.
- (E) Declaration of Use Required: Before receiving the permit, all owners shall sign a declaration of use, including all the conditions for continued use, to be recorded in the office of the Boulder County Clerk and Recorder to serve as actual and constructive notice of the legal status of the owner's property.
- (F) Expiration and Revocation of Permit: An accessory unit permit granted by the city manager or planning board automatically expires one hundred eighty days after the date on which it is granted unless a rental license for the unit is obtained within such period. The manager may grant an extension of this period for good cause shown, but only if application therefore is made prior to the expiration of the period. After revocation or expiration of the accessory unit permit, the city manager will inspect the property to ensure that the accessory unit has been removed.
 - (i) Expiration: An accessory unit permit expires upon the failure of the permittee to satisfy any condition prescribed by this subsection (a) or upon the sale, conveyance or transfer of the property upon which the unit is located.
 - (ii) Revocation: An accessory unit permit may be revoked by the city manager upon the permittee's or the permittee's tenant's conviction of a violation of this title or any provision of chapter 5-9, "Noise," section 6-1-21, "Animals as Nuisance Prohibited," chapter 6-2, "Weed Control," 6-3, "Trash," or section 9-9-21, "Signs," B.R.C. 1981.
 - (iii) Removal Required: Upon notification of permit expiration or revocation, the permittee may request a hearing as provided in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. Within thirty days of revocation or expiration of a permit, no owner shall fail to remove the accessory unit and return the property to its single-family use status as a single dwelling unit. The applicant shall either:
 - a. Remove the kitchen within the accessory unit and any physical separation between the accessory unit and the balance of the unit; or
 - b. Remove any physical separation between the accessory unit and the balance of the unit and sign a declaration of use in a form acceptable to the city manager, which will be recorded with the Boulder County Clerk and Recorder, stating the property will remain owner occupied for so long as the accessory unit kitchen remains and that the dwelling unit is used by the owner and the owner's family in a manner consistent with section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981. No person shall fail to remove the additional kitchen installed pursuant to this subsection if the dwelling unit is no longer owner occupied and if the dwelling unit requires a rental license under chapter 10-3, "Rental Licenses," B.R.C. 1981.
- (G) Limitations on Re-Application After Revocation: Upon revocation of a permit, the owner may not reapply for an accessory dwelling unit permit for any location in the city for a period of three years following the date of revocation or conviction.
- (H) Transfer: An accessory dwelling unit permit may be transferred to the new owner of a dwelling unit that has an existing, approved accessory unit, if there is no person on the waiting list within the dwelling unit's neighborhood area. A new property owner may apply to transfer an accessory unit permit into its name if the following standards are met:
 - (i) Proof of Ownership: The transfer applicant shall provide proof of ownership or of pending ownership of the dwelling unit.
 - (ii) Declaration of Use Required: The transfer applicant shall sign a declaration of use, that will be recorded with the Boulder County Clerk and Recorder acknowledging that the accessory dwelling unit is not automatically transferable to subsequent purchasers, that no vested right to duplex status arises by virtue of the city's granting of the accessory dwelling unit permit or a building permit to construct the same, and that lists all the conditions for the continued use of the accessory dwelling unit.

- (iii) Rented or Occupied: The transfer applicant shall provide proof that the accessory dwelling unit has been rented or occupied in the year prior to the application for the transfer.
 - (iv) Expiration: If a new owner fails to apply for a transfer of the permit within thirty days of the purchase of the dwelling unit, the permit shall automatically expire and the reestablishment of an accessory dwelling unit will require a new application.
 - (v) Fees: The applicant shall pay the fee required by section 4-20-43, "Development Application Fees," B.R.C. 1981, and all necessary fees for recording documents with the Boulder County Clerk and Recorder.
 - (vi) Rental License Required: The new owner shall apply for a rental license after the transfer of the accessory dwelling unit has been approved.
- (2) Accessory Dwelling Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to accessory dwelling units. The owner or the owners of a lot or parcel with an existing single-family dwelling unit may establish and maintain an accessory dwelling unit within the principal structure of a detached dwelling unit in the RL-1, RL-2, RE, RR-1, RR-2, A or P districts if all of the following conditions are met and continue to be met during the life of the accessory dwelling unit:
- (A) Neighborhood Area: In the RL-1, RL-2, RE, RR-1, RR-2, A or P zoning districts, no more than ten percent of the single-family lots or parcels in a neighborhood area contain an accessory dwelling unit. For the purpose of this subparagraph:
 - (i) The "neighborhood area" in RL-1, RL-2 and P zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which any accessory dwelling unit will be located.
 - (ii) The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area circumscribed by a line six hundred feet from the perimeter of the lot line within which any accessory dwelling unit will be located.
 - (iii) For the purpose of calculating the ten percent limitation factor, a legal, nonconforming structure containing two or more units or a limited accessory unit is counted as an accessory dwelling unit. The city manager may promulgate regulations defining additional methods to be used in calculating the ten percent limitation factor and the neighborhood area.
 - (iv) If an application for an accessory dwelling unit exceeds the ten percent requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional accessory dwelling unit within a neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide notice of intent to file an application within thirty days and file an application within sixty days of such notice.
 - (B) Parking: In addition to the parking required in each district, one off-street parking space is provided on the lot upon which the detached dwelling unit is located meeting the setback requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, unless a variance to the setback is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981.
 - (C) Criteria: The accessory dwelling unit is clearly incidental to the principal dwelling unit and meets the following criteria:
 - (i) The accessory dwelling unit is created only in a single-family detached dwelling unit on a lot of six thousand square feet or more.

- (ii) The accessory dwelling unit is a minimum of three hundred square feet, and does not exceed one-third of the total floor area of the principal structure, unless a variance is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or one thousand square feet, whichever is less.
 - (iii) The accessory dwelling unit utilizes only those utility hookups and meters allotted to the detached dwelling unit.
 - (iv) The accessory dwelling unit is created only through internal conversion of the principal structure. Minor exterior changes may be made on the building, however, if the square footage added constitutes no more than five percent of the principal structure's existing foundation area.
 - (v) If there is an interior connection between the accessory dwelling unit and the principal dwelling prior to the creation of the accessory dwelling unit, the connection shall be maintained during the life of the accessory dwelling unit. Any additional entrance resulting from the creation of an accessory dwelling unit may face the side of the lot fronting on the street only if such entrance is adequately and appropriately screened in a manner that does not detract from the single-family appearance of the principal dwelling.
- (D) Permits for Existing Units: No permit for an accessory dwelling unit shall be granted for a detached dwelling that is not at least five years old.
- (E) Accessory Unit Will Not Become a Nonconforming Use: If the provisions of this subsection are repealed by this or any future city council, the legal use of an accessory unit must be terminated within five years from the date of repeal, and the accessory unit will not become a nonconforming use.
- (3) Limited Accessory Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to limited accessory units. An existing nonconforming duplex or two detached dwelling units located on the same lot and within the R1 use module may be converted to limited accessory dwelling units. A limited accessory dwelling unit may be modified and expanded as a conditional use. Conversion to a limited accessory dwelling unit is subject to compliance with all of the following standards:
- (A) Applicability: This subsection (a)(3) is only applicable to dwelling units that legally existed, were actively used as multiple dwelling units, and had a valid rental license on January 1, 2005.
 - (B) Expansion Limitation: The cumulative total of any expansion shall not exceed twenty percent of the total floor area that was documented at the time of the initial expansion. Any expansion of the restricted accessory unit shall not exceed ten percent. In no case shall any expansion cause the cumulative size of the restricted dwelling units to exceed the maximum allowable floor area ratio of the underlying zoning district as set forth in section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981.
 - (C) Parking: The minimum number of off-street parking spaces shall not be less than three spaces. All parking shall comply with the design and access requirements set forth in section 9-9-6, "Parking Standards," B.R.C. 1981. A minimum of one off-street parking space shall be available for use by the restricted accessory dwelling unit.
 - (D) Loss of Prior Nonconforming Status: If a nonconforming duplex or two detached dwelling units are converted to limited accessory units through the conditional use process, any prior nonconforming status is lost.
- (4) Owner's Accessory Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to owners' accessory units. An owner or the owners of a lot or parcel with an existing single-family dwelling unit may establish and maintain an owner's accessory unit within the principal structure of the detached dwelling unit, or within an accessory structure meeting the size restrictions described below, on a lot or parcel in the RR, RE and RMX-1 districts if all of the following conditions are met and continue to be met during the life of the owner's accessory unit:

- (A) Parking: In addition to the parking required in each district, one paved off-street parking space is provided on the lot upon which the detached dwelling unit is located meeting the setback requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, unless a variance to the setback is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981. To the extent practical, any additional off-street parking that is constructed in the RR or RE zoning district required for the owner's accessory unit shall be screened from the view of properties that directly abut a property line of the owner's accessory unit.
- (B) Incidental to Principal Dwelling Unit: The owner's accessory unit is clearly incidental to the principal dwelling unit and meets the following criteria:
- (i) The owner's accessory unit is created on a lot of six thousand square feet or larger, which contains only one detached single-family dwelling in the RMX zoning district. The owner's accessory unit is created on a lot that meets the minimum lot size requirements of the underlying zoning district in the RR or RE zoning districts and contains only one detached single-family dwelling.
 - (ii) If the owner's accessory unit is located within the detached dwelling unit, the principal structure shall be at least one thousand five hundred square feet in size, excluding garage space.
 - (iii) The owner's accessory unit does not exceed one-third of the total floor area of the principal structure, unless a variance is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or one thousand square feet, whichever is less.
 - (iv) If there is an interior connection between the owner's accessory unit and the principal dwelling prior to the creation of the owner's accessory unit, the connection shall be maintained during the life of the owner's accessory unit. Any additional entrance resulting from the creation of an owner's accessory unit, within the principal building, may face the side of the lot fronting on the street only if such entrance is adequately and appropriately screened in a manner that does not detract from the single-family appearance of the principal dwelling.
 - (v) The following design standards apply to owner's accessory units in a detached accessory structure:
 - a. If garage doors are placed on the unit, they shall be single-car doors (no two-car-wide doors).
 - b. All units shall be designed to have a pitched roof of 6:12 or greater. No flat roofs or lower pitched roofs shall be permitted unless consistent with the architecture of the existing house on the property.
 - c. Maximum height of accessory buildings with an owner's accessory unit shall not be greater than twenty feet unless the roof pitch is greater than 8:12 and the resulting ratio of the height of the roof (measured from the eave line to the top of the roof) to the height of the side walls (measured from the low point of grade to the eave line) is less than a 1:2 ratio. In no case may a building be taller than twenty-five feet.
 - d. An owner's accessory unit shall have a minimum of sixty square feet of private open space provided for the exclusive use of the occupants of the owner's accessory unit. Private open space may include porches, balconies or patio areas. Decks, porches, patios, terraces and stairways, located at a height greater than thirty inches above grade, shall be considered part of the building coverage.
 - e. Architectural design and materials shall be consistent with the existing residence on the site or the adjacent building(s) along the side yards of the lot.
 - f. Setbacks shall comply with accessory building setbacks. Where the rear yard of a property in the RR or RE zoning district directly abuts an RL zoning district, the rear yard accessory building setback shall be the same as the side yard setback for accessory buildings for applicable RR or RE zoning districts.

- (A) No person other than a resident owner shall maintain an ownership interest in a cooperative housing unit unless such ownership interest is held by a nonprofit organization that has tax exempt status under 26 U.S.C. § 501(c)(3);
- (B) No more than a total of twenty cooperative housing unit applications no more than half of which may be in the RL zone may be approved for calendar years 1999 and 2000;
- (C) No more than ten percent of the principal structures in a neighborhood area shall be group homes, accessory dwelling units or cooperative housing units in the RR, RE and RL districts. No more than ten percent of the principal structures in the following defined areas shall be a cooperative housing unit in the RM, MU, RMX and RH districts. For the purposes of this subparagraph, such area means an area circumscribed by a line three hundred feet in the RL, RM, RMX, RH and MU districts and six hundred feet in the RR and RE districts from the perimeter of the lot line within which any building holding a cooperative housing unit will be located;
- (D) A maximum of six occupants on a conforming lot or, on a lot that is twice the minimum lot area per dwelling unit, a maximum of eight occupants, may occupy any cooperative housing unit in an RR, RE, RL, RM, RMX or MU zoning district. In the RH zoning district, a maximum of four occupants are allowed for each dwelling unit that is otherwise allowed on the site. For the purpose of this subsection, *habitable floor area* means the total square footage of all levels included within the outside walls of a building or portion thereof, but excluding courts, garages useable for the storage of motor vehicles, and uninhabitable areas that are located above the highest inhabitable level or below the first floor level. An *uninhabitable area* is a room that has less than a seven-foot floor-to-ceiling height. The unit shall provide a minimum of three hundred square feet of habitable floor area for each occupant;
- (E) No person shall use any room in a cooperative housing unit for sleeping purposes unless it meets the minimum habitability requirements set forth in sections 10-2-12, "Light, Ventilation, Window and Door Standards," 10-2-13, "Egress Standards," and 10-2-14, "Minimum Space, Use and Location Requirements," B.R.C. 1981;
- (F) The cooperative housing unit shall be owned by the resident occupants as provided in subparagraph (b)(4)(A) of this section. All resident occupants in the cooperative housing unit are required to use the cooperative housing unit as a principal residence, and seventy-five percent of the resident occupants of the cooperative housing unit shall have an ownership interest in the cooperative housing unit. Children under the age of twenty-one of a resident occupant shall not count against the maximum of twenty-five percent tenants that do not have an ownership interest, but shall count against the total occupants allowed in the cooperative housing unit;
- (G) No resident owner may own less than a five percent equity interest in a cooperative housing unit. No resident owner or nonprofit organization that has tax exempt status under 26 U.S.C. § 501(c)(3) may own more than a forty-nine percent equity interest in a cooperative housing unit. All resident owners in the cooperative housing unit shall have an equal vote in the governance of the cooperative housing unit;
- (H) The resident owners of a cooperative housing unit shall appoint a resident owner to serve as local agent of the cooperative housing unit. Notices given to the local agent or any resident owner shall be sufficient to satisfy any requirement of notice to the owner or operator of the property. The resident owners shall notify the city manager in writing of any change of the local agent within seven days of such change;
- (I) A minimum of one off-street parking space per two occupants shall be provided for each cooperative housing unit. The approving authority may grant a parking reduction or parking deferral of up to fifty percent of the required parking if the applicant can demonstrate that the criteria set forth in sections 9-9-6(e) and (f), B.R.C. 1981, have been met. A cooperative housing unit shall have a minimum of two off-street parking spaces;
- (J) All occupants over sixteen years of age shall obtain and continue to maintain a local access bus pass with the Regional Transportation District;

- (K) One cooperative housing unit is permitted on a building lot;
 - (L) The cooperative housing unit shall not have more than one kitchen unless the additional kitchen was installed pursuant to permits approved pursuant to chapter 10-5, "Building Code," B.R.C. 1981, prior to an application for a cooperative housing unit; and
 - (M) No cooperative housing unit shall have an accessory dwelling unit.
- (5) Information on Operation: The cooperative housing unit and the local agent shall provide the city manager, in writing, with any changes in information required by this subsection, including, without limitation, the names of all resident owners, other occupants and the local agent within seven days of the change.
 - (6) Expiration of Permit: An approval for a cooperative housing unit automatically expires at the end of the five-year period if the approval is not renewed, if the entire property has been conveyed by the resident owners to another person, or if the property is no longer used as a cooperative housing unit.
 - (7) Revocation of Approval: The city manager will revoke an approval of a cooperative housing unit for violations of the following conditions unless, due to extenuating circumstances that the applicant has presented to the city manager, the city manager finds that the resident owners of the cooperative housing unit will make changes to the cooperative housing unit that will prevent future violations:
 - (A) Upon the first conviction in an RL zoning district or the second conviction in the remaining zoning districts in Boulder municipal court for any violation of any of the following, within any two-year period based on events that occurred in the cooperative housing unit: chapter 5-9, "Noise," B.R.C. 1981;
 - (B) Upon the first conviction in an RL zoning district or the second conviction in the remaining zoning districts in Boulder municipal court for any violation of any of the following within any two-year period based on events that occurred at the cooperative housing unit: chapter 6-2, "Weed Control," or section 6-3-3, "Trash Accumulation Prohibited," B.R.C. 1981; or
 - (C) For exceeding the maximum occupancy allowed for the cooperative housing unit.
 - (8) Prohibitions: No occupant of a cooperative housing unit shall fail to comply with all provisions of this subsection including, without limitation, the provisions of paragraph (b)(4) of this section.
 - (9) Hearings: Upon notification of a revocation, the resident owners of the cooperative housing unit may request a hearing as provided in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, before the planning board. Within sixty days of revocation or expiration of an approval, no owner shall fail to remove the cooperative housing unit and return the property to a use permitted in the zoning district.
 - (10) No Nonconforming Use: If the provisions of this subsection are repealed for any zoning district by this or any future city council, the legal use of a cooperative housing unit must be terminated within fifteen years from the date of such repeal; and the property owner shall remove the cooperative housing unit and return the property to a use that is permitted in the zoning district. The cooperative housing unit use will not become a nonconforming use.
- (c) Detached Dwelling Units With Two Kitchens: The following criteria apply to any detached dwelling units with two kitchens:
- (1) Second Kitchen Shall Not Create an Additional Dwelling Unit: The second kitchen shall be incidental to occupancy of the entire house in common by all occupants and shall not be designed or used to create or allow for the creation of a second dwelling unit. In determining whether the second kitchen creates or may create an additional dwelling unit, the city manager shall consider whether the proposed kitchen can be separated from the remainder of the dwelling unit, with other rooms, including a bathroom, with a separate exterior access.
 - (2) Owner Occupied: The detached dwelling unit within which the second kitchen is located is actually and physically occupied as a principal residence by at least one owner of record of the lot or parcel upon which the de-

tached dwelling unit is located who possesses at least an estate for life or a fifty percent fee simple ownership interest.

- (3) Agreement Required: If such use is approved, the city manager and the property owner shall record an agreement with the Boulder County Clerk and Recorder, whereby the property owner acknowledges and agrees that the dwelling unit shall only be used as a single dwelling unit and in compliance with the conditional use approval. The agreement shall also bind the owner and occupants and the owner's heirs, successors-in-interest, assigns and lessees.

(d) Group Home Facilities: The following criteria apply to any group home facility:

- (1) For purposes of density limits in section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, and occupancy limits, eight occupants, not including staff, in any group home facility constitute one dwelling unit, but the city manager may increase the occupancy of a group home facility to ten occupants, not including staff, if:
 - (A) The floor area ratio for the facility complies with standards of the Colorado State Departments of Health and Social Services and chapter 10-2, "Housing Code," B.R.C. 1981; and
 - (B) Off-street parking is appropriate to the use and needs of the facility and the number of vehicles used by its occupants, regardless of whether it complies with other off-street parking requirements of this chapter.
- (2) In order to prevent the potential creation of an institutional setting by concentration of group homes in a neighborhood, no group home facility may locate within three hundred feet of another group home facility, but the city manager may permit two such facilities to be located closer than three hundred feet apart if they are separated by a physical barrier, including, without limitation, an arterial collector, a commercial district or a topographic feature that avoids the need for dispersal. The planning department will maintain a map showing the locations of all group home facilities in the city.
- (3) No person shall make a group home facility available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. A determination that a person poses a direct threat to the health or safety of others or a risk of substantial physical damage to property must be based on a history of overt acts or current conduct of that individual and must not be based on general assumptions or fears about a class of disabled persons.

(e) Home Occupations:

- (1) Standards: A home occupation is a permitted accessory use if the following conditions are met:
 - (A) Such use is conducted entirely within a principal or accessory building and is not carried on by any person other than the inhabitants living there.
 - (B) Such use is clearly incidental and secondary to the residential use of the dwelling and does not change the residential character thereof.
 - (C) The total area used for such purposes does not exceed one-half the first floor area of the user's dwelling unit.
 - (D) There is no change in the outside appearance of the dwelling unit or lot indicating the conduct of such home occupation, including, without limitation, advertising signs or displays.
 - (E) There is no on-site sale of materials or supplies except incidental retail sales.
 - (F) There is no exterior storage of material or equipment used as a part of the home occupation.
 - (G) No equipment or process is used in such home occupation that creates any glare, fumes, odors or other objectionable condition detectable to the normal senses at the boundary of the lot if the occupation is conducted in a detached dwelling unit, or outside the dwelling unit if conducted in an attached dwelling unit.

- (H) No traffic is generated by such home occupation in a volume that would create a need for parking greater than that which can be accommodated on the site or which is inconsistent with the normal parking usage of the district.
- (2) Prohibitions: No person shall engage in a home occupation except in conformance with all of the requirements of paragraph (e)(1) of this section.
- (f) Residential Care, Custodial Care and Congregate Care Facilities: The following criteria apply to any residential care facility, custodial care facility or congregate care facility:
 - (1) For purposes of density limits in section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, and occupancy limits, six occupants, including staff, in any custodial, residential or congregate care facility constitute one dwelling unit, but the city manager may increase the occupancy of a residential care facility to eight occupants, including staff, if:
 - (A) The floor area ratio for the facility complies with standards of the Colorado State Departments of Health and Social Services and chapter 10-2, "Housing Code," B.R.C. 1981; and
 - (B) Off-street parking is appropriate to the use and needs of the facility and the number of vehicles used by its occupants, regardless of whether it complies with other off-street parking requirements of this chapter.
 - (2) In order to prevent the potential creation of an institutional setting by concentration of custodial, residential or congregate care facilities in a neighborhood, no custodial, residential or congregate care facility may locate within seven hundred fifty feet of another custodial, residential or congregate care facility, but the approving agency may permit two such facilities to be located closer than seven hundred fifty feet apart if they are separated by a physical barrier, including, without limitation, an arterial collector, a commercial district or a topographic feature that avoids the need for dispersal. The planning department will maintain a map showing the locations of all custodial, residential or congregate care facilities in the city.
 - (3) Uses allowed in the BMS district must be located above or below the ground floor; otherwise by use review only.
- (g) Residential Development in Industrial Zoning Districts: The following standards and criteria apply to any residential development including attached or detached dwelling units, custodial care units, residential care units, congregate care units, boarding and rooming houses, cooperative housing units, fraternities, sororities, dormitories and hostels proposed to be constructed in the IG or the IM zoning district classifications:
 - (1) Application Requirements: An applicant for a dwelling unit in an IG or IM zoning district shall apply on forms provided by the city manager showing how and in what manner the standards and criteria of this subsection have been met. In addition to any information required by sections 9-2-2, "Administrative Review Procedures," and 9-2-15, "Use Review," B.R.C. 1981, the applicant shall provide the following information:
 - (A) Environmental Assessment: A report that addresses each of the items required by the American Society for Testing and Materials Standards (ASTM) E-1527 and E-1528. The report shall be current and with a completion date within five years of the date of application.
 - (B) Contiguity Map: A map that demonstrates that the proposed residential development meets the contiguity requirements of paragraph (g)(2) of this section.
 - (2) Location Within the Industrial Districts: Dwelling units within the IG or IM zoning district classifications may be constructed if located on a parcel that has not less than one-sixth of the perimeter of the parcel contiguous with the residential use that includes one or more dwelling units or contiguous to a residential zone or to a city or county owned park or open space. Contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area. If a parcel meets this standard, the approving authority shall presume that the standard in paragraph 9-2-15(e)(5), B.R.C. 1981, has been met.

- (3) Requirement for Certain Residential Uses: The following uses shall also meet the requirement for such uses in sections 9-6-2 through 9-6-9, B.R.C. 1981: custodial care units, residential care units, congregate care units and cooperative housing units.
- (4) Residential and Nonresidential Uses Within a Project: If residential uses are to be placed on the property, the entire property shall be used exclusively for residential purposes except as otherwise provided in this paragraph. Nonresidential uses are permitted, provided that site design is approved pursuant to the site review criteria in section 9-2-14, "Site Review," B.R.C. 1981, in order to ensure that the site design and building layout will result in compatibility among uses or to mitigate potential impacts between such uses.
- (5) Limited Retail Uses Permitted: Convenience store, personal service or restaurant uses may be permitted as accessory uses to a residential development permitted by this subsection if all of the following standards are met:
 - (A) Each convenience store, personal service or restaurant use does not exceed two thousand five hundred square feet in floor area, and in the case of restaurants, such restaurants shall close no later than 11:00 p.m. unless otherwise approved in a city review process.
 - (B) The total amount of floor area used for all of the convenience store, personal service or restaurant uses does not exceed five percent of the total residential floor area of the development.
 - (C) The uses are permitted only if development is located no closer than one thousand three hundred twenty feet from another property that is described as a business district in section 9-5-2, "Zoning Districts," B.R.C. 1981, or another convenience store, personal service or restaurant use in another development created pursuant to this subsection.
- (6) Bulk and Density Requirements: All residential development shall be subject to the bulk and density standards set forth in section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the landscaping for the underlying zoning district, except as modified by the following:
 - (A) Lot Size: The minimum lot size shall be at least two acres. Projects over five acres shall also be required to complete a site review pursuant to section 9-2-14, "Site Review," B.R.C. 1981.
 - (B) Side Yard Adjacent to a Street: The minimum side yard landscaped setback from a street for all buildings that contain residential uses shall be twenty feet.
 - (C) Interior Side Yard: The minimum side yard setback from an interior lot line for all principal buildings and uses shall be twenty feet. If an existing building is converted to residential uses, the side yard setback may be reduced to twelve feet for the existing portion of the building.
 - (D) Floor Area Ratios: The floor area regulations for the underlying zoning district classification shall only apply to the nonresidential floor area on the site.
 - (E) Open Space: If the site is not located within the service area of a neighborhood park, as identified in the Parks and Recreation Master Plan, a minimum of forty percent of the required usable open space shall be configured as a common contiguous area that will provide for the active and passive recreational needs of the residents.
- (7) Buffers From Adjacent Land Uses: The applicant shall provide visual screening, which may include, without limitation, walls, fences, topographic changes, horizontal separation or plantings for those areas that are adjacent to loading docks, truck or other delivery vehicle ingress or egress areas, dumpsters or other recycling vessels and outdoor storage areas.
- (8) Environmental Suitability: The applicant shall demonstrate that the proposed use will not be affected by any adverse health or safety impacts associated with potential on-site pollution or contamination beyond that which is customarily acceptable for land that is used for residential purposes. This shall be demonstrated through the use of the environmental assessment required to be submitted with the application. If such environmental assessment identifies any potential adverse health or safety impacts on future residents of the site, the applicant shall

also be required to submit further assessments that demonstrate that such concerns are not present or submit a plan for the mitigation measures that are necessary to alleviate any adverse impacts to public health, safety and welfare.

- (9) Construction Standards for Noise Mitigation: The applicant shall utilize construction standards that will achieve an interior day-night average noise level of no more than forty-five decibels, anticipating potential exterior day-night average industrial noise levels of seventy-three decibels measured at the property line. Such standards shall be in compliance with chapter 10-5, "Building Code," B.R.C. 1981. Noise shall be measured in a manner that is consistent with the federal Housing and Urban Development's standards in sections 24 C.F.R. §§ 51.100 to 106 for the "measure of external noise environments," or similar standard adopted by the city manager in the event that such rule is repealed. The applicant shall provide written certification prior to the issuance of a certificate of occupancy that the sound abatement and attenuation measures were incorporated in the construction and site design as recommended by a professional engineer.
- (10) Declaration of Use Required: Before receiving a building permit, all owners shall sign a declaration of use, including all the conditions for continued use, to be recorded in the office of the Boulder County Clerk and Recorder to serve as actual and constructive notice to potential purchasers and tenants of the owner's property status as a residential use within an industrial zoning district classification.
- (11) Modification of Standards: The approving authority is authorized to modify the standards set forth in section 9-2-14, "Site Review," B.R.C. 1981, or paragraphs (g)(6), (g)(7), (g)(8) and (g)(9) of this section, upon finding that:
 - (A) The strict application of these standards is not possible due to existing physical conditions;
 - (B) The modification is consistent with the purpose of the section; and
 - (C) The modification is the minimum modification that would afford relief and would be the least modification of the applicable provisions of this chapter.

The city manager shall require that a person requesting a modification supply the information necessary to substantiate the reasons for the requested modification.

- (h) Transitional Housing: The following criteria apply to any transitional housing facility:
 - (1) Density: The maximum number of dwelling units with transitional housing facility shall be the same as is permitted within the underlying zoning district, except that for any zoning district that is classified as an industrial zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the number of dwelling units permitted shall not exceed one dwelling unit for each one thousand six hundred square feet of lot area on the site.
 - (2) Occupancy: No person shall occupy such dwelling unit within a transitional housing facility except in accordance with the occupancy standards set forth in section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for dwelling units.
 - (3) Parking: The facility shall provide one off-street parking space for each dwelling unit on the site. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the zoning district if the applicant can demonstrate that the criteria set forth in subsection 9-9-6(e), B.R.C. 1981, have been met.
- (i) Attached dwelling units in corner townhouse units in the RH-6 zone district: The following criteria apply to any attached dwelling units in the RH-6 zoning district:
 - (1) Density: The maximum number of dwelling units shall be the same as is permitted in the RH-6 zone district.
 - (2) Location of Units: The attached dwelling units shall be located in a development that includes townhouse dwelling units. Attached dwelling units shall only be located on a corner that has street frontage on two sides.
 - (3) Parking: Attached units must meet the parking requirement of one space per dwelling unit.

Ordinance Nos. 5679 (1994); 7079 (2000); 7132 (2001); 7336 (2004); 7364 (2004); 7484 (2006); 7535 (2007); Ord. 7589 (2008); 7655 (2009); 7699 (2009); 7700 (2009)

9-6-4. Agriculture and Natural Resource Uses.

Reserved.

9-6-5. Temporary Lodging, Dining, Entertainment and Cultural Uses.

- (a) Bed and Breakfasts: The following criteria apply to bed and breakfast uses:
- (1) The structure is compatible with the character of the neighborhood in terms of height, setbacks and bulk. Any modifications to the structure are compatible with the character of the neighborhood.
 - (2) One parking space is provided for each guest bedroom, and one space is provided for the operator or owner's unit in the building.
 - (3) No structure contains more than twelve guest rooms. The number of guest rooms shall not exceed the occupancy limitations set forth in section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C. 1981.
 - (4) No cooking facilities including, without limitation, stoves, hot plates or microwave ovens are permitted in the guest rooms. No person shall permit such use.
 - (5) One attached exterior sign is permitted to identify the bed and breakfast, subject to the requirements of section 9-9-21, "Signs," B.R.C. 1981.
 - (6) No long-term rental of rooms is permitted. No person shall permit a guest to remain in a bed and breakfast for a period in excess of thirty days.
 - (7) No restaurant use is permitted. No person shall serve meals to members of the public other than persons renting rooms for nightly occupancy and their guests.
 - (8) No person shall check in or check out of a bed and breakfast or allow another to do so except between the times of 6:00 a.m. and 9:00 p.m.
- (b) Restaurants and Taverns: The intent of this subsection is to ensure that restaurant and tavern owners and operators in close proximity to residential districts are informed of the effects upon neighboring residential properties of operating a business, and are educated about ways to mitigate, reduce or eliminate potential impacts of a restaurant or tavern operation upon neighboring properties.

The applicant shall include all areas inside the restaurant measured to the inside surface of the outside walls, except for floor area that is used exclusively for storage that is located on another floor of the building, when determining whether the floor area thresholds under section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, necessitate review under this subsection.

- (1) Restaurants and Taverns in the DT-1, DT-2 and DT-3 Zoning Districts and Portions of the BMS Zoning District: Owners and operators of restaurant and tavern uses permitted as a conditional use or pursuant to a use review in the DT-1, DT-2 and DT-3 zoning districts and those portions of the BMS zoning district that are outside of the University Hill General Improvement District are required to organize and participate in a meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.
- (2) Restaurants and Taverns in the University Hill General Improvement District Within the BMS Zoning District: The following criteria apply to restaurants and tavern uses permitted as a conditional use or pursuant to a use review in the BMS zoning district that is also located within the University Hill General Improvement District:

- (A) Meeting With Surrounding Property Owners Required: Restaurant and tavern owners and operators shall be required to organize and participate in a good neighbor meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.
 - (B) Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan, pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, and present it to the surrounding property owners at the neighbor meeting.
- (3) Restaurants in the Industrial Districts: The following criteria will apply to any restaurant use located in an Industrial district:
- (A) The use is intended generally to serve the industrial area in which it is located;
 - (B) The use is not located along a major street or higher classification street as shown in appendix A, "Major Streets," of this title;
 - (C) In the IMS district only, the use shall be limited to a maximum size of two thousand square feet of floor area;
 - (D) Parking for restaurants in industrial districts shall meet the minimum number of off-street parking spaces per square foot of floor area for nonresidential uses. The indoor and outdoor seating requirements of Section 9-9-6(b), "Off-Street Parking Requirements," shall not be applied to industrial service centers;
 - (E) The use may operate daily between the hours of 5:00 a.m. and 11:00 p.m.; and
 - (F) No person shall operate the use between the hours of 11:00 p.m. and 5:00 a.m., unless the use is:
 - (i) Approved through a use review process; and
 - (ii) Located more than five hundred feet from an adjacent residential use or zone.
- (4) Restaurants and Taverns With Outdoor Seating Within Five Hundred Feet of a Residential Use Module: The following criteria apply to any outdoor seating area that is within five hundred feet (measured from the perimeter of the subject property) of a residential use module. Outdoor dining areas that are within the BMS, DT and I zoning districts are also subject to the provisions of subparagraph (b)(4)(A), (b)(4)(B) or (b)(4)(C) of this section, when applicable.
- (A) Size Limitations: Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the restaurant or tavern.
 - (B) Parking Required: Parking in compliance with section 9-9-6, "Parking Standards," B.R.C. 1981, shall be provided for all outdoor seating areas except those located in general improvement districts.
 - (C) Music: No outdoor music or entertainment shall be provided after 11:00 p.m.
 - (D) Sound Levels: The outdoor seating area shall not generate noise exceeding the levels permitted in chapter 5-9, "Noise," B.R.C. 1981.
 - (E) Trash: All trash located within the outdoor dining area, on the restaurant or tavern property, and adjacent streets, sidewalks and properties shall be picked up and properly disposed of immediately after closing.
- (c) Temporary Sales or Outdoor Entertainment:
- (1) Standards: The city manager may permit temporary sales or outdoor entertainment events if the following conditions are met:
 - (A) Such uses are temporary and limited to two consecutive weeks in any three-month period, unless otherwise approved by the city manager;

- (B) Such uses conducted from movable structures or upon vacant lots shall submit a site plan, including, without limitation, the location, setback from property line, screening, sign and fence locations, if applicable, and electric meter locations or power source;
 - (C) Applicants shall obtain the appropriate sales tax license and, if applicable, temporary fence permits;
 - (D) All exterior areas used for such uses and the lot or parcel that such uses occur upon shall meet the bulk requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981;
 - (E) Such uses may not adversely affect the required parking or result in unsafe conditions or unacceptable levels of congestion;
 - (F) Upon termination of the use pursuant to subparagraph (c)(1)(A) of this section, the lot or parcel shall be returned substantially to its original condition. All litter, fences, borders, tie-down materials and other items associated with the temporary sale shall be promptly removed. Unless otherwise approved by the city manager, "promptly" as used in this subparagraph shall mean within five days; and
 - (G) Temporary sales shall only be conducted by the owner or lessee of the property on which it is conducted and only in conjunction with the principal use of the property.
- (2) Prohibitions: No person shall sell merchandise or services from a motor vehicle, trailer, mobile home or tent upon any public or private property, including, without limitation, lots or portions thereof that are vacant or used for parking except as provided in this subsection.

Ordinance Nos. 5623 (1994); 5784 (1996); 7364 (2004); 7974 (2008)

9-6-6. Public and Institutional Uses.

- (a) Daycare Centers: The following criteria apply to any daycare center except home daycares:
 - (1) Fencing is provided around outdoor play areas.
 - (2) If the use is adjacent to an arterial, collector or minor arterial as shown in appendix A, "Major Streets," of this title, off-street loading and unloading areas are provided.
 - (3) Adequate off-street parking is provided for employees, volunteers and visitors.
 - (4) Child daycare facilities are properly licensed by the State Department of Social Services.
 - (5) For nursery care (any child under the age of eighteen months), the facility provides fifty square feet of useable indoor floor area per child or a total of six hundred square feet of useable floor area, whichever is greater.
 - (6) For child care other than nursery care, the facility provides thirty square feet of useable indoor floor area per child or a total of six hundred square feet of useable floor area, whichever is greater.
 - (7) All child day care facilities shall provide a minimum of seventy five square feet of usable outdoor play area per child or a total of two thousand four hundred square feet of useable outdoor play area, whichever is greater.
- (b) Shelters (Day, Emergency and Overnight):
 - (1) General Requirements for All Shelters: The following criteria apply to any day, emergency or overnight shelters:
 - (A) Good Neighbor Meeting and Management Plan: The intent of a good neighbor meeting and management plan is to ensure that shelter owners and operators are informed of the effects upon neighboring properties of operating such a facility, and are educated about ways to mitigate, reduce or eliminate potential impacts upon neighboring properties. Owners and operators shall implement a good neighbor plan when establishing a shelter that meets the following standards:

- (i) Meeting With Surrounding Property Owners Required: The owners or operators of a shelter shall be required to organize and participate in a meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.
 - (ii) Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, and present it to the surrounding property owners at the neighbor meeting.
 - (iii) School Safety Plan: Any facility that is within six hundred feet from a school that proposes to admit clients that may be under the influence of alcohol shall also develop a safety plan, in consultation with the school and the superintendent of the Boulder Valley School District, if applicable, to ensure safety of the school's students. For the purpose of this subsection, *school* means a public, parochial or nonpublic school that provides a basic academic education in compliance with the school attendance laws for students in grades kindergarten through the eighth grade. "Basic academic education" has the same meaning as set forth in § 22-33-104(2)(b), C.R.S.
 - (iv) Resubmission and Amendment of a Management Plan: Every three years, or when the owner or operator changes the operating characteristics in a manner that does not comply with the approved management plan, whichever occurs first, the owner or operator shall resubmit a management plan. No owner or operator shall fail to resubmit a management plan that meets the requirements of this subsection. The city manager is authorized to require an owner or operator to organize, host and participate in a good neighbor meeting if the city manager determines that such a meeting will be of assistance in identifying additional adverse impacts that may have been created by the facility. The management plan shall address how the facility will address any additional adverse impacts that have been identified by the city manager. The city manager will approve the management plan upon finding that any such additional adverse impacts will be mitigated by amendments to the management plan.
- (2) Additional Requirements for Day Shelters: The following additional criteria apply to any day shelter:
- (A) On-Site Staffing: No facility shall be open for use by clients unless there is staff on-site to supervise and oversee the clients.
 - (B) Waiting Areas: No person shall allow or permit clients of a facility to queue or otherwise wait for the facility to open or to otherwise be admitted into the facility in the public right-of-way. The facility shall provide an indoor or outdoor waiting area in a size adequate to prevent the anticipated number of clients from queuing into or otherwise waiting in the public right-of-way.
 - (C) Outdoor Area: The facility shall provide an outdoor area, screened from the surrounding properties and the public right-of-way for use of clients once admitted to the facility.
 - (D) Parking: The facility shall provide off-street parking at the rates set forth in section 9-9-6, "Parking Standards," B.R.C. 1981, for a nonresidential use. The approving authority may grant a parking deferral of the higher of up to fifty percent of the required parking or what otherwise may be deferred in the underlying zoning district if the applicant can demonstrate that the criteria set forth in subsection 9-9-6(e), B.R.C. 1981, have been met.
- (3) Additional Requirements for Emergency Shelter: The following additional requirements apply to any emergency shelter:
- (A) Waiver of Good Neighbor Meeting and Management Plan Requirement: The city manager may waive the requirement that the applicant organize, host and participate in a good neighbor meeting upon finding that the applicant will not require a use review, and that the needs of the facility's clients for anonymity and a safe and secure environment will be compromised by such a meeting.
 - (B) Parking: The facility shall provide off-street parking at the rates set forth below. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise

may be deferred in the underlying zoning district if the applicant can demonstrate that the criteria set forth in subsection 9-9-6(e), B.R.C. 1981, have been met.

- (i) One space for each employee or volunteer that may be on the site at any given time computed on the basis of the estimated maximum number of employees and volunteers on the site at any given time;
 - (ii) One parking space for each twenty occupants, based on the maximum occupancy of sleeping rooms and the dormitory type sleeping areas; and
 - (iii) One parking space for each attached type dwelling unit.
- (C) Maximum Occupancy: No person shall permit the maximum occupancy of a facility to exceed the following unless approved pursuant to an occupancy increase:
- (i) Sleeping Areas: For emergency shelter facilities that operate with sleeping rooms or with open air dormitory type sleeping areas, the following occupancy standards apply:
 - a. Residential Districts: For any zoning district that is classified as a residential zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed six persons for each dwelling unit that would otherwise be permitted based on the lot area or open space on the site.
 - b. Business Districts: For any zoning district that is classified as a commercial zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed six persons for each dwelling unit that would otherwise be permitted based on the lot area or open space on the site. Up to two additional persons per dwelling unit equivalents in the business zoning districts is permitted if the property is not adjacent to a residential zoning district classification as set forth in section 9-5-2, "Zoning Districts," B.R.C. 1981. For the purpose of this subparagraph, *adjacent* means separated by an alley, a street that is a minor arterial or lesser classification on the Transportation Master Plan functional classification map, or a property line, notwithstanding a break in a survey, that is shared between the facility and another property.
 - c. Industrial Districts: For any zoning district that is classified as an industrial zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed six persons for each one thousand six hundred square feet of lot area on the site. Up to two additional persons for each one thousand six hundred square feet of lot area on the site in an industrial zoning district is permitted if the property is not adjacent to a residential zoning district classification as set forth in section 9-5-2, "Zoning Districts," B.R.C. 1981. For the purpose of this subparagraph, *adjacent* means separated by an alley, a street that is a minor arterial or lesser classification on the Transportation Master Plan functional classification map, or a property line, notwithstanding a break in a survey, that is shared between the facility and another property.
 - d. Occupancy Increase: For applicants that cannot meet the conditional standards for occupancy increases set forth in this subparagraph, or otherwise is limited to six occupants per dwelling unit equivalent, the maximum occupancy of a facility may be increased from six up to ten occupants per dwelling unit equivalents upon approval of a use review pursuant to section 9-2-15, "Use Review," B.R.C. 1981.
 - (ii) Attached Housing: For emergency shelter facilities that are located in zoning districts that permit attached housing, that operate as separate attached dwelling units, each dwelling unit equivalent shall constitute two attached dwelling units. No person shall occupy such dwelling unit except in accordance with the occupancy standards set forth in section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C. 1981, for dwelling units.

- (iii) Detached Housing: For emergency shelter facilities that are located in zoning districts that do not permit attached housing, each detached dwelling unit shall constitute one dwelling unit. No person shall occupy such a dwelling unit except in accordance with the occupancy standards set forth in section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C. 1981, for a dwelling unit.
 - (iv) Calculating Occupancy: The maximum occupancy for a facility shall include the occupants of the facility in addition to the occupants of overnight shelter uses and transitional housing uses that are also located on the property.
- (D) Review Standards: Uses designated as conditional uses in section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, shall be processed under the provisions of this paragraph, unless the applicant makes a request to increase the maximum occupancy per dwelling unit equivalent from six persons per dwelling unit equivalent up to ten occupants for sleeping room or dormitory type sleeping areas.
- (4) Additional Standards for Overnight Shelters: The following additional criteria apply to any overnight shelter:
- (A) On-Site Staffing: No facility shall be open for use by clients unless there is staff on-site to supervise and oversee the clients.
 - (B) Waiting Areas: No person shall allow or permit clients of a facility to queue or otherwise wait for the facility to open or to otherwise be admitted into the facility in the public right-of-way. The facility shall provide an indoor or outdoor waiting area in a size adequate to prevent the anticipated number of clients from queuing into or otherwise waiting in the public right-of-way.
 - (C) Parking: The facility shall provide off-street parking at the rates set forth below. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the underlying zoning district if the applicant can demonstrate that the criteria set forth in subsection 9-9-6(e), B.R.C. 1981, have been met.
 - (i) One space for each employee or volunteer that may be on the site at any given time computed on the basis of the estimated maximum number of employees and volunteers on the site at any given time; and
 - (ii) One parking space for each twenty occupants, based on the maximum occupancy of the facility.
 - (D) Maximum Occupancy: No person shall permit the maximum occupancy of a facility to exceed the following unless approved pursuant to an occupancy increase:
 - (i) Residential Districts: For any zoning district that is classified as a residential zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed four persons for each dwelling unit that would otherwise be permitted based on the lot area or open space on the site.
 - (ii) Business Districts: For any zoning district that is classified as a commercial zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed four persons for each dwelling unit that would otherwise be permitted based on the lot area or open space on the site. Up to two additional persons per dwelling unit equivalent in the business zoning districts is permitted if the property is not adjacent to a residential zoning district classification as set forth in section 9-5-2, "Zoning Districts," B.R.C. 1981. For the purpose of this subparagraph, *adjacent* means separated by an alley, a street that is a minor arterial or lesser classification on the Transportation Master Plan functional classification map, or a property line, notwithstanding a break in a survey, that is shared between the facility and another property.
 - (iii) Industrial Districts: For any zoning district that is classified as an industrial zoning district pursuant to section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed four persons for each one thousand six hundred square feet of lot area on the site. Up to two additional persons for each one thousand six hundred square feet of lot area on the site in

an industrial zoning district is permitted if the property is not adjacent to a residential zoning district classification as set forth in section 9-5-2, "Zoning Districts," B.R.C. 1981. For the purpose of this subparagraph, *adjacent* means separated by an alley, a street that is a minor arterial or lesser classification on the Transportation Master Plan functional classification map, or a property line, notwithstanding a break in a survey, that is shared between the facility and another property.

- (iv) Calculating Occupancy: The maximum occupancy for a facility shall include the occupants of the facility in addition to the occupants of emergency shelter uses and transitional housing uses that are also located on the property.
 - (v) Occupancy Increase: For applicants that cannot meet the conditional standards for occupancy increases set forth in this subparagraph, or otherwise is limited to four occupants per dwelling unit equivalent, the maximum occupancy of a facility may be increased from four or six up to eight occupants per dwelling unit equivalents upon approval of a use review pursuant to section 9-2-15, "Use Review," B.R.C. 1981.
- (E) Review Standards: Uses designated as conditional uses in section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, shall be processed under the provisions of this paragraph, unless the applicant proposes to exceed the following standards. In such cases, the applicant will also be required to complete the use review process pursuant to section 9-2-15, "Use Review," B.R.C. 1981.
- (i) High Density Residential: In the RH zoning districts, a use review will also be required if the applicant requests the maximum occupancy per dwelling unit equivalent be increased from four up to eight occupants.
 - (ii) Business - Community, Business - Main Street and Business - Transitional Districts: In the BC, BT and BMS zoning districts, a use review will also be required if the maximum occupancy per dwelling unit equivalent is increased from four up to eight occupants. For the purpose of this subparagraph, *adjacent* means separated by an alley, a street that is a minor arterial or lesser classification on the Transportation Master Plan functional classification map, or a property line, notwithstanding a break in a survey, that is shared between the facility and another property.

Ordinance Nos. 5679 (1994); 7132 (2001); 7364 (2004)

9-6-7. Office, Medical and Financial Uses.

Offices, Computer Design and Development, Data Processing, Telecommunications, Medical or Dental Clinics and Offices or Addiction Recovery Facilities in the Service Commercial Zoning Districts: The combined total amount of any office, computer design and development facility, data processing facility, telecommunication use, or medical or dental clinic or office or addiction recovery facility shall not exceed fifty percent of the total floor area of the building.

Ordinance No. 7364 (2004)

9-6-8. Parks and Recreation Uses.

Reserved.

9-6-9. Commercial, Retail and Industrial Uses.

- (a) Antennas for Wireless Telecommunications Services:
 - (1) Standards: An antenna for wireless telecommunications services is permitted as a principal use on a lot if the following conditions are met:
 - (A) Architectural Compatibility: The antenna must be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.

- (B) Wall Mounts: The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible to ensure both the functionality of the antenna and to minimize visual impact and shall not project above the wall on which it is mounted.
- (C) Screening: The antenna shall be painted or fully screened to match as closely as possible the color and texture of the wall on which it is mounted.
- (D) Mounts on Roof Appurtenances: The antenna may be attached to an existing conforming penthouse or mechanical equipment enclosure which projects above the roof of the building but may not project any higher than the penthouse or enclosure (no increase in height is permitted) and must be flush mounted to the existing mechanical equipment as technically possible to ensure both the functionality of the antenna and to minimize visual impact.
- (E) Roof Mounts on Buildings Less Than Fifty-Five Feet Tall: On buildings fifty-five feet or less in height, the antenna may be mounted on the roof if:
 - (i) The manager finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall;
 - (ii) No portion of the antenna or related base station shall cause the height of the building to exceed the limitations set forth in sections 9-7-1, "Schedule of Form and Bulk Standards," 9-7-5, "Building Height," and 9-7-6, "Building Height, Conditional," B.R.C. 1981;
 - (iii) No antenna and related base station cover more than ten percent of the roof area of a building, and the aggregate of any antennas, any base stations, and any appurtenances do not exceed an aggregate of twenty-five percent of the roof area;
 - (iv) Roof-mounted antennas and related base stations are completely screened from view by materials that are consistent and compatible with the building design, color and materials; and
 - (v) No portion of the antenna, related base station and attendant equipment exceeds ten feet above the height of the existing building.
- (F) Site Review and PUD Approval: If a proposed antenna is located on a building or lot subject to an approved planned unit development or site review, a minor modification to the approval is required prior to the issuance of a building permit.
- (G) Historic Preservation Rules: No antenna shall be permitted on property designated as an individual landmark or as part of a historic district, unless such antenna has been approved through the issuance of a landmark alteration certificate pursuant to sections 9-11-13, "Landmark Alteration Certificate Application," 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," 9-11-15, "Landmark Alteration Certificate Hearing," 9-11-16, "Call-Up by City Council," 9-11-17, "Issuance of Landmark Alteration Certificate," and 9-11-18, "Standards for Landmark Alteration Certificate Applications," B.R.C. 1981.
- (H) Exclusion of Competitors Prohibited: No antenna owner or lessee or officer or employee thereof shall act to exclude or to attempt to exclude any other competitor from using the same building for the location of other antennas.
- (I) Co-Location of Facilities: No antenna owner or officer or lessee or employee thereof shall fail to cooperate in good faith to accommodate other competitors in their attempts to use the same building for other antennas. If a dispute arises about the feasibility of accommodating another competitor, the city manager may require a third party technical study, at the expense of either or both parties, in the discretion of the manager, based upon the relative fault of the parties, to resolve the dispute.
- (J) Technical Standards: No antenna owner or lessee shall fail to assure that the antenna complies at all times with the then current applicable American National Standards Institute or Federal Communications Com-

mission standards, whichever is more stringent, for cumulative field measurements of radio frequency power densities and electromagnetic fields. After installation, but prior to putting the antenna in service, each antenna owner shall provide a certification by an independent professional engineer to that effect.

- (K) Interference With T.V. or Radio Signals Prohibited: No antenna owner or lessee shall fail to assure that the antenna does not cause localized interference with reception of television and radio broadcasts.
- (L) Public Zoning District: In the P zoning district, no person shall mount or maintain an antenna on a lot, parcel or building containing a residential use.
- (M) Residential Zoning District Variance: The city manager will grant a variance to the prohibition of antennas for wireless communications in the RR-1, RR-2, RE, RL-1, RL-2, RM-1, RM-2, RM-3 and MH zoning districts, if the applicant, in addition to all of the standards of this subsection, can meet the standards of this subparagraph:
 - (i) The antennas are located on a building that is used as one of the following uses of land: public elementary, junior and senior high schools; private elementary, junior and senior high schools; adult education facilities and vocational schools; religious assemblies; recreational buildings and uses open to the public; offices, professional and technical; medical or dental clinics or offices; essential municipal and public utility services; governmental facilities; and neighborhood business centers;
 - (ii) The antennas are located on a nonresidential building. To be considered a "nonresidential building," at least fifty percent of the floor area of the building shall be used for nonresidential uses;
 - (iii) The applicant demonstrates that it cannot provide reliable coverage within the City of Boulder by locating antennas within other zoning districts that allow antennas for wireless communications as a conditional use; and
 - (iv) If such location is needed as part of an overall comprehensive plan to provide full wireless telecommunications within the City of Boulder or the surrounding area.
- (N) Water Towers: Notwithstanding that a water tower may be considered an accessory building or use, antennas may be placed on water towers in zoning districts where antennas for wireless communications are designated as conditional uses in section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, and in compliance with the standards set forth in this subsection. No portion of any antennas or accessory base station shall extend above the height of the water tower walls. For the purposes of this subsection, *water tower* means a freestanding, above ground, water storage facility, usually round or cylindrical in shape.
- (O) Prohibition: No person shall locate an antenna for wireless communications services upon any lot or parcel except as provided in this subsection.
- (P) Summary of Appropriate Antenna Locations: Table 6-2 of this section summarizes the appropriate location for an antenna.

TABLE 6-2: ANTENNA LOCATIONS

Antenna Locations	On building wall	On existing conforming penthouse or mechanical screen	On a roof	On new mechanical screening or replacement screening	Base station equipment, allowed on roof
On buildings under 55' in height	Yes	Yes, if it does not project above an existing penthouse or mechanical screen	Yes, subject to the standards in subparagraph 9-6-9(a)(1)(E), B.R.C. 1981	Yes, if it does not project above the mechanical screen	Yes, if it does not project above the maximum allowable building height of the underlying zoning district
On buildings over 55' in height	Yes	Yes, if it does not project above an existing penthouse or mechanical screen	No	Yes, if it does not project above the mechanical screen	No

- (b) Automobile Parking Garages: The following criteria shall apply to any automobile parking garage as a principal use on a lot that is over twenty thousand square feet in a DT-1, DT-2, DT-3 or DT-5 zoning district:
- (1) Scope: The standards contained herein for automobile parking garages apply only to such uses first approved after June 17, 1997.
 - (2) Building Setbacks: The building shall be set back fifteen feet from any property line adjacent to a public street, but not an alley, for any portions of the building between thirty-five feet and forty-five feet in height. The facade of the building shall be set back thirty feet from any property line adjacent to a public street, but not an alley, for any portions of the building between forty-five feet and fifty-five feet in height. All portions of a building above the permitted height shall also be required to meet the requirements set forth in section 9-2-14, "Site Review," B.R.C. 1981.
 - (3) Maximum Number of Stories: The requirements for the maximum number of stories set forth in section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, shall not be applied to the parking areas within automobile parking garages.
 - (4) First Floor Wrap Required: No person shall build an automobile parking garage pursuant to the provisions of this subsection without providing a first floor retail wrap meeting the following standards:
 - (A) The depth of the retail wrap is a minimum of twenty-five and a maximum of thirty feet;
 - (B) The wrap faces on all streets, except alleys, for the entire length of the building, except for those places necessary to provide ingress and egress into the parking areas; and
 - (C) The space is used for retail, restaurant and other pedestrian-oriented uses otherwise permitted or approved in the zoning district.
 - (5) Second Floor Wrap Required: No person shall build an automobile parking garage pursuant to the provisions of this subsection without providing a second floor wrap meeting the following standards:
 - (A) The depth of the second floor wrap is a minimum of fifteen feet and a maximum of thirty feet;
 - (B) The second floor wrap faces on all streets, except alleys, for the entire length of the building; and
 - (C) The space is for any use otherwise permitted or approved for the zoning district.
 - (6) Floor Area Ratio Requirements: The maximum floor area ratio for non-parking uses shall be 0.7:1. Uninhabitable space shall not be included in the floor area ratio calculation for non-parking uses. The floor area ratios set forth in section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the floor area ratio requirements applying to the Downtown (DT) districts, as shown in section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, shall not be applied to an automobile parking garage.
 - (7) Varied Through Site Review: The provisions in paragraphs (b)(2), (b)(4), (b)(5) and (b)(6) of this section may be varied as part of a site review pursuant to section 9-2-14, "Site Review," B.R.C. 1981, if the approving authority finds that the design of the structure provides other features that mitigate the adverse effects of the building on the street and on pedestrians.
- (c) Drive-Thru Uses: The following criteria will apply to any drive-thru use:
- (1) No drive-thru facility is allowed in any Downtown (DT) district unless the property is located directly abutting Canyon Boulevard.
 - (2) Hazardous and other adverse effects on adjacent sites and streets are avoided.
 - (3) The location of any access to the drive-thru facility from an adjacent street does not impair its traffic-carrying capacity.

- (4) Internal circulation and access to and egress from the site do not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.
 - (5) Clearly marked pedestrian crosswalks are provided for each walk-in customer access to the facility adjacent to the drive-thru lanes.
 - (6) The drive-thru use is screened from adjacent rights-of-way and properties through placement of the use, screening, landscaping or other site design techniques.
 - (7) Environmental impacts, including, without limitation, noise, air emissions and glare are not significant for the employees of the facility or the surrounding area.
 - (8) Any curb cuts serving the use are not located within two hundred feet of any intersection of the rights-of-way of any two of the major streets or major arterials shown on the map of major streets.
 - (9) The location, size, design and operating characteristics of the proposed facility are such that the drive-thru operation will be reasonably compatible with and have minimal negative impact on the use of nearby properties.
 - (10) The noise generated on the site is inaudible to adjacent residential uses, measured at or inside the property line of property other than that on which the sound source is located.
 - (11) Nonconforming drive-thrus shall comply with the criteria of subsection 9-10-2(d), B.R.C. 1981.
- (d) Fuel Service Stations or Retail Fuel Sales: The following criteria apply to any fuel service station or retail fuel sales in a business or industrial district. A fuel service station use shall comply with paragraphs (d)(1) through (d)(8) of this section. Retail fuel sales uses shall comply with all standards except paragraphs (d)(2) and (d)(6) of this section:
- (1) Any fuel service station that is located adjacent to any residential uses shall meet the requirements of section 9-2-15, "Use Review," B.R.C. 1981.
 - (2) Areas for the storage of vehicles to be serviced in excess of twenty-four hours are in enclosed areas or shielded from view from adjacent properties.
 - (3) There is adequate space to allow up to three cars to stack in a line at a pump without using any portion of the adjacent street.
 - (4) The visual impact of the use is minimized and screened from adjacent rights-of-way and properties through placement of buildings, screening, landscaping and other site design techniques.
 - (5) Dispensing pumps are not located within twenty-five feet of a property line abutting a street.
 - (6) In addition to the parking requirements of sections 9-7-1, "Schedule of Form and Bulk Standards," and 9-9-6, "Parking Standards," B.R.C. 1981, and the stacking requirements of paragraph (d)(3) of this section, adequate space is provided for the storage of two vehicles per service bay off-street.
 - (7) The location, size, design and operating characteristics of the proposed facility are reasonably compatible with the use of nearby properties.
 - (8) A minimum landscaped side yard setback of twenty feet and a minimum rear yard landscaped setback of twenty-five feet are required where the use abuts residential uses or residential zoning districts.
 - (9) Retail fuel sales in industrial zones shall only be permitted in association with a convenience retail store pursuant to subsection 9-6-3(g), B.R.C. 1981.
 - (10) Servicing of vehicles is limited to the checking and adding of fluids and air and the cleaning of windows. No other repair or servicing of vehicles is permitted on site.
- (e) Manufacturing Uses With Off-Site Impacts: All manufacturing uses with potential off-site impacts which may produce effects on the environment that are measurable at or beyond the property line, may be permitted pursuant to

section 9-2-15, "Use Review," B.R.C. 1981, provided that such uses shall demonstrate that such effects are not detrimental to the public health, safety or general welfare; that any noise, smoke, vapor, dust, odor, glare, vibration, fumes or other environmental contamination is controlled in accordance with applicable city, state or federal regulations; and that a plan of control for the above effects on the environment and an estimate of the measurement of each at the property lines is submitted at the time of such use review application.

(f) Neighborhood Business Center:¹

- (1) Limitations: A neighborhood business center may be located only in the R2, R3, R6 and R7 use modules. Neighborhood business centers shall also comply with the requirements of sections 9-2-15, "Use Review," and 9-2-14, "Site Review," B.R.C. 1981.
- (2) Criteria: No neighborhood business center shall be developed or operated except in conformance with all of the following criteria:
 - (A) Size: The entire neighborhood business center shall not exceed three acres in size and is located so as to provide services primarily to existing residential development in the surrounding neighborhood;
 - (B) Type and Size Compatible: The nonresidential uses are of a type and size appropriate for the service and convenience of the residents of the residential development or the surrounding residential neighborhood;
 - (C) Placement, Design and Character Compatible: The placement, design and character of the nonresidential uses are complementary to and compatible with the predominantly residential character of the residential development or the surrounding established residential neighborhood;
 - (D) Permitted Nonresidential Uses: The nonresidential uses permitted are restaurants, as set forth in subparagraph (f)(2)(E) of this section, and the list of uses and their respective size limitations set forth in table 6-3 of this section, notwithstanding any restrictions within section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981. Each "use" shall be a separate business or commercial operation.

TABLE 6-3: NEIGHBORHOOD BUSINESS CENTER USE RESTRICTIONS

Allowed Uses	Size Restrictions
Daycare center	50 children - not to exceed 2,500 square feet
Offices - professional/technical/general	1,000 square feet maximum per office use and the cumulative total of all office uses shall not exceed 20 percent of the total floor area of the neighborhood business center
Offices - medical/dental/including other health arts, including chiropractors, physical therapists, nutritionists, mental health practitioners	1,000 square feet maximum per office and the cumulative total of all office uses shall not exceed 15 percent of the total floor area of the neighborhood business center
Personal service use	1,500 square feet maximum per use
Establishments for the retailing of convenience goods	1,500 square feet maximum per use, however a convenience food store may be a maximum of 5,000 square feet if it does not exceed 50 percent of the total floor area of the neighborhood business center
Full service food market or grocery store	10,000 square feet maximum, provided that such use does not exceed 50 percent of the neighborhood business center
General retail	1,000 square feet maximum per use
Art and studio space	1,000 square feet maximum per use

- (E) Restaurant Restrictions: Restaurants are permitted as a use within a neighborhood business center provided the following criteria are met, notwithstanding any restriction within section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981:

¹ "Neighborhood Business Centers" were referred to as "Neighborhood Centers" or "Village Centers" in earlier ordinances.

- (i) No Parking Reduction: No parking reduction may be granted for the neighborhood business center or any contemporaneously developed adjacent residential development unless the applicant can provide adequate assurances that there will be no parking spillover onto the surrounding residential streets;
 - (ii) Size: The gross floor area of the restaurant does not exceed one thousand five hundred square feet in size, and up to three hundred additional square feet of floor area may be utilized for storage purposes only;
 - (iii) Proportion of Development: The restaurant use is included in a development containing other uses approved as part of the neighborhood business center and does not exceed twenty-five percent of the gross floor area of the project;
 - (iv) Drive-Thru Uses Prohibited: The restaurant does not contain a drive-thru facility;
 - (v) Trash Storage: A screened trash storage area is provided adjacent to the restaurant use, in accordance with the requirements of section 9-9-18, "Trash Storage and Recycling Areas," B.R.C. 1981;
 - (vi) Loading Area: A loading area meeting the requirements of section 9-9-9, "Off-Street Loading Standards," B.R.C. 1981, provided adjacent to the restaurant use;
 - (vii) Signage: Signage complies with a sign program approved as part of the review by the city manager consistent with the requirements of section 9-9-21, "Signs," B.R.C. 1981; and
 - (viii) Environmental Impacts: Any environmental impact including, without limitation, noise, air emissions and glare is confined to the lot upon which the restaurant use is located and is controlled in accordance with applicable city, state and federal regulations.
- (g) Outdoor Display of Merchandise: The following criteria apply to the outdoor display of merchandise:
- (1) Merchandise shall not be located within any required yard adjacent a street.
 - (2) Merchandise shall not be located within or obstruct required parking and vehicular circulation areas or sidewalks.
 - (3) Merchandise shall be screened to the extent possible from the view of adjacent streets.
 - (4) Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock.
- (h) Recycling Facilities:
- (1) General Requirements: Small recycling collection facilities, large recycling collection facilities and recycling processing facilities shall comply with and be operated and maintained in accordance with the provisions of this subsection and with the terms of their special review approval.
 - (2) Small Recycling Collection Facilities: A small recycling collection facility shall not exceed seven feet in height, shall not be located within thirty feet of land zoned, planned in the Boulder Valley Comprehensive Plan, or occupied for residential use, shall be screened from the public right-of-way and adjacent properties by an opaque fence at least seven feet high, and shall meet the following additional conditions:
 - (A) A facility is permitted only in conjunction with an existing conforming commercial use or public use.
 - (B) Space that will be periodically needed for removal of materials or exchange of containers is not counted toward the two hundred fifty square foot limit.
 - (C) The fence opacity and height screening requirements may be modified or waived by the city manager upon a finding that the design and configuration of the containers in which the recyclable materials are to be deposited are such that screening by such a fence is not necessary.
 - (D) The facility shall use no power-driven processing equipment, except for reverse vending machines.

- (E) All containers shall be constructed of durable waterproof and rustproof material, maintained in that condition, covered when the site is not attended, and secured from unauthorized entry or removal of material.
 - (F) All recyclable material shall be stored in the containers when an attendant is not present.
 - (G) The facility shall be maintained free of vermin infestation, and mobile facilities, at which the collection truck or other container is removed at the end of each collection day, shall be swept at least at the end of each collection day.
 - (H) Collection of deposited recyclable material from a facility located within one hundred feet of a property zoned or occupied for residential use shall occur only during the hours between 7:00 a.m. and 7:00 p.m.
 - (I) 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 shall display a notice stating that no material shall be left outside the recycling enclosure or containers.
 - (J) Any signs relating to the facility in an approved site review shall be consistent with the approved uniform sign program pursuant to subsection 9-9-21(k), B.R.C. 1981.
 - (K) The facility shall not impair any required landscaping.
 - (L) No additional parking spaces are required for customers of a small collection facility located at the established parking lot of a host use, but one additional space shall be provided for the attendant, if needed.
 - (M) Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present.
 - (N) Occupation of parking spaces by the facility and by the attendant shall not reduce available parking spaces below the minimum number required for the primary host use unless a parking study shows the existing parking capacity is not already fully utilized during the time the recycling facility will be on the site.
- (3) Large Recycling Collection Facilities: A large collection facility shall meet all setback and landscaping requirements of the zoning district in which it is located, and shall meet the following additional conditions:
- (A) The facility shall not abut a property zoned for residential use.
 - (B) The facility shall be screened from the public right-of-way by operating:
 - (i) Within an enclosed building, or
 - (ii) Within an area enclosed by an opaque fence at least seven feet in height with landscaping, and at least one hundred and fifty feet from property zoned, planned in the Boulder Valley Comprehensive Plan or occupied for residential use.
 - (C) All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured and maintained in good condition, or shall be baled or pelletized. Storage containers for flammable material shall be constructed of nonflammable material. Oil storage shall be in containers approved by the city fire department. No storage, excluding truck trailers and overseas containers, shall be visible above the height of the fencing.
 - (D) The site shall be maintained free of vermin infestation and shall be cleaned of litter and loose debris on at least a daily basis.
 - (E) One parking space shall be provided for each commercial vehicle operated by the recycling facility. Parking requirements are as required in the zone, except that parking requirements for employees may be reduced if it can be shown that such parking spaces are not necessary, such as when employees are transported in a company vehicle to the work facility.

- (F) If the facility is located within five hundred feet of property zoned, planned under the Boulder Valley Comprehensive Plan or occupied for residential use, it shall not operate between 7:00 p.m. and 7:00 a.m.
 - (G) Any container provided for after-hours donation of recyclable materials shall be at least fifty feet from any property zoned, planned in the Boulder Valley Comprehensive Plan or occupied for residential use, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials.
 - (H) The containers shall be clearly marked to identify the type of materials that may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.
 - (I) The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation.
 - (J) Power-driven processing, including aluminum foil and can compacting, baling, plastic shredding or other light processing activities necessary for efficient temporary storage and shipment of material, may be approved through special review.
- (4) Recycling Processing Facilities: A recycling processing facility shall not be located within one hundred fifty feet of land zoned, planned in the Boulder Valley Comprehensive Plan or occupied for residential use, and shall comply with the following additional conditions:
- (A) Processors shall operate in a wholly enclosed building except for incidental storage, or within an area enclosed on all sides by an opaque fence or wall not less than seven feet in height and landscaped on all street frontages.
 - (B) Setbacks and landscaping requirements shall be those provided for the zoning district in which the facility is located.
 - (C) All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured and maintained in good condition, or shall be baled or pelletized. Storage containers for flammable materials shall be constructed of nonflammable material. Oil storage shall be in containers approved by the city fire department. No storage, except for truck trailers or overseas containers, shall be visible above the height of the fencing.
 - (D) The site shall be maintained free of vermin infestation, shall be cleaned of litter and loose debris on at least a daily basis, and shall be secured from unauthorized entry and removal of materials when attendants are not present.
 - (E) Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space shall be provided for a minimum of ten customers or the peak load, whichever is higher, unless the city manager determines that allowing overflow traffic is compatible with surrounding businesses and public safety.
 - (F) One parking space shall be provided for each commercial vehicle operated by the processing center. Parking requirements shall otherwise be as required for the zone in which the facility is located.
 - (G) If the facility is located within five hundred feet of property zoned, planned in the Boulder Valley Comprehensive Plan or occupied for residential use, it shall not be in operation between 7:00 p.m. and 7:00 a.m. The facility shall be administered by on-site personnel during the hours the facility is open.
 - (H) Any containers provided for after-hours donation of recyclable materials shall be at least fifty feet from any property zoned, planned in the Boulder Valley Comprehensive Plan or occupied for residential use; shall be of sturdy, rustproof construction; shall have sufficient capacity to accommodate materials collected; and shall be secure from unauthorized entry or removal of materials.
 - (I) Containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.

- (J) No dust, fumes, smoke, vibration or odor from the facility shall be detectable on neighboring properties.
- (i) Sales of Vehicles Within Five Hundred Feet of Residential Use Module: The following criteria shall apply to any use in an industrial zoning district for the sale or lease of motor vehicles, mobile homes, campers, boats, motorized equipment and accessories for such vehicles, on a lot or parcel located five hundred feet or less from a residential zoning district:
- (1) No person shall allow outdoor intercoms and similar devices that electronically amplify sound to be audible at or beyond the property line.
 - (2) The use shall not be open for business during the hours of 9:00 p.m. through 7:00 a.m.
 - (3) During regular business hours, outdoor lighting on the property shall not exceed an average of ten foot-candles.
 - (4) During all other times, outdoor lighting on the property shall be in conformance with the standards set forth in section 9-9-16, "Lighting, Outdoor," B.R.C. 1981.
- (j) Industrial Service Center: An industrial service center is permitted in the IG and IM zoning districts and the I2 and I3 use modules as a principal use of land if the following standards are met:
- (1) Site Review Required. The application for an industrial service center may only be approved as part of a site review application under Section 9-2-14, "Site Review," B.R.C. 1981. The minimum site review thresholds in Paragraph 9-2-14(b)(1), B.R.C. 1981, shall not apply to an application for an industrial service center. The following additional factors will be considered in the site review process:
 - (A) The nonresidential uses are of the type and size for the service and convenience of the employees of the surrounding area; and
 - (B) The placement, design and character of the nonresidential use are complementary to and compatible with the predominantly industrial character of the area.
 - (2) Maximum Size of Property. The industrial service center shall not exceed two acres in size. An industrial service may be located on a property that exceeds two acres in size;
 - (3) Location. The industrial service center shall be located at least one-quarter of a mile from land that is zoned as a business district described in Section 9-5-2, "Zoning Districts," B.R.C. 1981, or from another industrial service center; and
 - (4) Restaurant Parking. Parking for industrial service centers shall meet the minimum number of off-street parking spaces per square foot of floor area for nonresidential uses. The indoor and outdoor seating requirements of section 9-9-6(b), "Off-Street Parking Requirements," shall not be applied to industrial service centers.
 - (5) Permitted Nonresidential uses. Any use permitted in the underlying zoning district classification may be permitted in an industrial service center, provided that all of the requirements for such uses are met. The additional permitted uses within an industrial service use, subject to size restrictions, include the following:

Permitted Uses	Restrictions
Office — professional	1,500 sq. ft. maximum per office use, and the cumulative total of all office uses shall not exceed 20% of the total floor area of the industrial service center
Office — medical and dental	1,500 sq. ft. maximum per office use, and the cumulative total of all office uses shall not exceed 20% of the total floor area of the industrial service center
Personal service use	2,000 sq. ft. maximum per personal service use
Convenience retail use	2,500 sq. ft. maximum per convenience retail use
Retail	2,000 sq. ft. maximum per retail use
Financial institution	1,500 sq. ft. maximum per financial institution use
Restaurant	Conditional use requirements for restaurants in paragraph 9-6-5(b)(3) are not applicable

(6) Hours of Operation:

- (A) Any use permitted in an industrial service center may operate daily between the hours of 5:00 a.m. and 11:00 p.m.
- (B) No person shall operate any use in an industrial service center between the hours of 11:00 p.m. and 5:00 a.m., unless the use is:
 - (i) Approved through a use review process; and
 - (ii) Located more than five hundred feet from an adjacent residential use or zone.

Ordinance Nos. 5930 (1997); 5971 (1998); 5992 (1998); 7079 (2000); 7364 (2004); 7522 (2007); 7574 (2008); 7669 (2009); 7700 (2009)