

CHAPTER 16

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ARTICLE 1

General Provisions

Sec. 16-1-10. Short title.

This Chapter shall be known and may be cited as the "Zoning Ordinance of the City of Edgewater." (Prior code 23-1)

Sec. 16-1-20. Scope.

It is not intended by this Chapter to repeal, abrogate, annul or any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified herein and those ordinances or parts of ordinances which have heretofore established land use zoning designations upon any land or lands within the City; with private restrictions placed upon property by covenant, deed or other private agreement; or with restrictive covenants running with the land to which the City is a party. Where this Chapter imposes a greater restriction upon land, buildings or structures than is imposed or is required by such existing provisions of law, ordinance, contract or deed, this Chapter shall control. (Prior code 23-2)

Sec. 16-1-30. Purpose.

This Chapter is enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City by lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing light and air, avoiding undue congestion of population, facilitating the adequate provision of transportation, water, sewerage, schools and other public requirements, securing protection of the tax base, and by other means in accordance with the Comprehensive Plan. (Prior code 23-3)

Sec. 16-1-40. Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. (Prior code 23-4)

Sec. 16-1-50. Definitions.

When not inconsistent with the content, words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number; and the masculine includes the feminine. For the purposes of this Chapter, certain terms and words are defined as follows:

Alley means a public thoroughfare, not exceeding thirty-five (35) feet in width, which affords only a secondary means of access to abutting property.

Area, minimum lot means the total area within the property lines of the lot, excluding adjacent streets.

Automobile service station means a building and such accessory structures as are necessary to supply motor fuel and oil to motor vehicles, which complies with all of the following provisions:

- a. Is contained in a structure limited in size to two (2) single-car service bays, plus restrooms and office and/or supply storage space.
- b. Is limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories directly to motor vehicles, and to washing, polishing and servicing motor vehicles only to the extent of installation of the enumerated items.
- c. Is provided with barriers of such dimensions that occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles, and light facilities are so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic.
- d. Extinguishes all floodlights at close of business or 11:00 p.m., whichever is earlier.
- e. Fuel pumps need not be enclosed.

Boarding and rooming house means a building or portion thereof which is used to accommodate, for compensation, one (1) or more boarders or roomers, not including members of the family who might be occupying such building. *Compensation* includes compensation in money, services or other things of value.

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

Building, accessory means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use.

Building height means the vertical distance from the grade to the highest point of the roof surface.

Building, nonconforming means a building, structure or portion thereof built prior to the effective date of the ordinance codified herein or any amendment thereto, and conflicting with this Chapter applicable to the zone in which it is situated.

Building, principal means a building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk plane means an imaginary line (plane) above which a structure may not extend. The bulk plane shall not exceed a height of fifteen (15) feet at the property line extending to the center of the property at a forty-five-degree angle.

Day nursery means a facility, by whatever name known, which is maintained for the whole or part of a day for the care of three (3) or more children under the age of sixteen (16) years and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation, and with or without stated educational purposes; and which provides for each child

present at least two hundred (200) square feet of defined outdoor space having a minimum dimension of ten (10) feet, being enclosed by a fence or wall at least thirty-six (36) to forty-two (42) inches high and by planting designed to grow at least three (3) feet thick and six (6) feet high.

Deferred deposit lender establishment, also known as a *cash advance* or *payday loan business*, means a business or establishment that is subject to the Colorado Deferred Deposit Loan Act, Sections 5-3.1-101 to 123, C.R.S.

Dwelling means any building or portion thereof which is used as the private residence or sleeping place of one (1) or more human beings, but not including hotels, motels, tourist courts, resort cabins, clubs, hospitals or similar uses.

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

Dwelling, one-family means a detached building designed exclusively for and occupied by one (1) family.

Dwelling unit means one (1) or more rooms in a dwelling designed for or occupied by one (1) family living and cooking on the premises.

Family means any number of persons living and cooking together on the premises as a single dwelling unit, but it does not include a group of more than three (3) individuals not related by blood or marriage.

Grade (ground level) means the average of the finished ground level at the center of any two (2) opposite outer walls of a building.

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

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

Kennel means any lot or premises on which four (4) or more animals at least four (4) months of age are harbored.

Lot means a parcel of land occupied or to be occupied by a building or group of buildings and any accessory buildings identified with each, together with such open areas as are required under this Chapter, and having its principal frontage on a public right-of-way.

Lot line, front means the property line dividing a lot from a street. On a corner lot only one (1) street line shall be considered as a front line and the shorter street frontage shall be considered the front line.

Lot line, rear means the line opposite the front lot line.

Lot line, side means any lines other than front lot lines or rear lot lines.

Lot, reversed corner means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot width means the distance parallel to the front lot line measured between side lot lines through that part of the building or structure where the lot is narrowest.

Membership club means an association of persons, whether incorporated or unincorporated, for some common purpose, but not including groups organized primarily to render a service carried on as a business.

Occupied includes arranged, designed, built, altered, converted, rented, leased or intended to be occupied.

Person includes association, firm, copartnership or corporation.

Setback means the distance extending across the full width of the lot between the centerline of the adjoining street or alley and the nearest line or point of the building.

Sign, ground means any sign supported by or directly attached to the ground. Pole or pedestal type signs are *ground signs*.

Sign, projecting means any sign attached to a building or structure wall and extending horizontally outward from such wall more than twelve (12) inches.

Sign, roof means any sign erected upon the roof of any building.

Sign, wall means any sign painted or otherwise depicted directly upon a wall or affixed to a wall and not projecting more than twelve (12) inches from such wall. Any sign visible through a window or affixed to a window is a *wall sign*.

Street means any public or private thoroughfare which affords the principal means of access to abutting property, and including such terms as public right-of-way, highway, road and avenue.

Structure means any thing constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six (6) feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities.

Tourist home means any building containing five (5) or less guest rooms used, designed to be used, let or hired out for occupancy by persons on more or less a temporary basis.

Use means the purpose for which land or building is designed, arranged or intended, or for which either is or may be occupied or maintained.

Use, accessory means a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.

Use, nonconforming means the use of a structure or premises conflicting with this Chapter.

Yard means that portion of the area on a lot extending open and unobstructed, except for extensions [exemptions] allowed under Section 16-22-40, from the ground upward from a lot line for a depth or width specified by the provisions for the district in which the lot is located.

Yard, front means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the principal building or structure.

Yard, rear means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building or structure.

Yard, side means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building or accessory building attached thereto.

Zoning Administrator means the individual appointed to such position by the City Manager or the individual or entity designated to fulfill the duties of such position pursuant to a written services agreement approved by the City Council. (Prior code 23-5; Ord. 10-06 §2, 2006; Ord. 10-07 §4, 2007; Ord. 12-08 §1, 2008; Ord. 05-10 §1, 2010)

Sec. 16-1-60. Penalty.

(a) Penalty for violations. It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any provision of this Chapter. Any person, either as owner, lessee, occupant or otherwise, who violates or interferes in any manner with any person in the performance of a right or duty granted or imposed upon him or her by this Chapter, is guilty of a misdemeanor and the penalty for violations of this Chapter shall be as prescribed in Section 1-4-20.

(b) Legal action. In case any building or structure is or is proposed to be erected, constructed, altered, maintained or used, or any land is proposed to be used, in violation of any provision of this Chapter, the City Council, the City Attorney or any owner of real estate within the City, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use. (Prior code 23-6)

ARTICLE 2

Administration, Construction and Enforcement

Sec. 16-2-10. Application of regulations.

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

purpose of complying with this Chapter shall be considered as providing a yard or other open space for any other building. (Prior code 23-26)

Sec. 16-2-20. Application to existing buildings.

The regulations contained in this Chapter are not retroactive in their application to existing buildings. (Prior code 23-27)

Sec. 16-2-30. Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this Chapter are at variance with any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standards, shall govern. (Prior code 23-28)

Sec. 16-2-40. Validity.

Should any section, clause or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid. (Prior code 23-29)

Sec. 16-2-50. Enforcement.

It shall be the duty of the Zoning Administrator to enforce the provisions of this Chapter. (Prior code 23-30; Ord. 05-10 §2, 2010)

Sec. 16-2-60. Building compliance.

No building shall be constructed or structurally altered and used until the Building Inspector has certified that such building and the use thereof comply with the provisions of this Chapter or that such use has been granted by the Board of Adjustment. (Prior code 23-31)

Sec. 16-2-70. Building permit compliance.

Before issuing a building permit for the construction, alteration or moving of a building the Building Inspector shall satisfy himself or herself that such building and the use thereof after construction, alteration or new location will conform to the provisions of this Chapter. (Prior code 23-32)

Sec. 16-2-80. Land use compliance.

No vacant land shall be used and no existing use of land shall be changed to another use, except for farming and gardening, until the Building Inspector has certified that such use complies with the provisions of this Chapter. (Prior code 23-33)

Sec. 16-2-90. Application and plats.

When application for a building permit is made, the Building Inspector may require a plat showing the actual dimensions of the lot to be built upon, the size of the building to be erected and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats should be kept in the office of the Building Inspector. (Prior code 23-34)

Sec. 16-2-100. Fees and deposits.

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

(b) Any development review cash deposit required by this Chapter shall be refundable, as further provided below, and shall be used by the City to reimburse the City's direct costs in processing the application that are not covered by the land use application fee, including but not limited to outside consultant fees necessary to review the application, such as legal, planning and engineering fees, the costs of document recordation and reproduction and public hearing expenses.

(c) The City shall maintain a separate account of the development review cash deposit and track all monies deposited into and withdrawn from such account throughout the application process. The City shall make monthly statements of account activity available to the applicant.

(d) A development review cash deposit account shall maintain a minimum balance in an amount specified by the Zoning Administrator. The City shall provide written notice to the applicant when the account balance is below such minimum amount, and the applicant shall pay the amount necessary to meet or exceed the minimum balance within ten (10) days of the City's notice. Failure by the applicant to replenish the account within the time specified shall be cause for the City to cease processing the application, to refrain from scheduling the application for consideration before any City body or person, to deny approval of the application and to withhold building permits and certificates of occupancy for the project.

(e) Within ninety (90) days after final approval of the application or within ninety (90) days after the date on which the applicant has given written notice that he or she will not proceed with the application, the City will determine the balance owing to the applicant, that amount being the amount deposited over the costs incurred, and return that amount to the applicant's mailing address on file.

(f) If the City incurs costs beyond the amount deposited with the City and the applicant fails to pay such costs within sixty (60) days after written notice from the City, the City may avail itself of any remedy available at law or in equity to collect such costs. The City may also assess interest on any such amount past due at the rate of eighteen percent (18%) per annum. (Ord. 15-10 §1, 2010)

Sec. 16-2-110. Preapplication meeting.

(a) Subject to the exceptions provided by Subsection (e) below, prior to filing any application required by this Chapter, the applicant shall attend a preapplication meeting with the City planning staff and such other personnel as the City deems necessary.

(b) The purpose of the preapplication meeting is to define the scope of the project, to alert the applicant and the City to any particular circumstance concerning the subject property and, in general, to settle on the suitability of the proposed project prior to extensive planning.

(c) An informal preliminary application shall be submitted at the preapplication meeting. The informal application should describe the nature and scope of the proposed application and, in the case of a PUD application, shall include a sketch plan reflecting total acreage, adjacent landowners, adjacent land uses, existing and proposed streets, highways and utilities that will service the project, major physical features, including drainages, the location of natural features in and around the development and existing and proposed uses, including the number of dwelling units. The City Planner may waive any of these requirements in his or her discretion.

(d) Prior to or at the time of the preapplication meeting, the applicant shall submit a development review cash deposit in the amount of three hundred dollars (\$300.00). If the applicant submits a complete formal application for a project within six (6) months of the preapplication meeting concerning said project, the deposit submitted pursuant to this Subsection shall be credited towards the development review cash deposit required for the formal application.

(e) The preapplication meeting required by this Section shall not apply to applicants for sign permits, minor amendments to PUDs requiring administrative approval only, site development plans for new single-family residences, new two-family residences and new accessory structures and variances and appeals to the Board of Adjustment. (Ord. 15-10 §2, 2010)

ARTICLE 3

Districts and District Regulations

Sec. 16-3-10. Districts established.

In order to carry out the provisions of this Chapter the City is divided into the following use districts, in order of restrictiveness, beginning with the most restrictive:

<i>District</i>	<i>Type</i>
R-A, Residential A	One-Family
R-B, Residential B	One-Family
R-1, Residential 1	One-Family
R-2, Residential 2	Two-Family
R-3, Residential 3	Multiple-Dwelling Family
R-C1, Residential-Commercial 1	Limited Residential-Commercial

R-C2, Residential-Commercial 2	General Residential-Commercial
R-4, Residential 4	High-Rise Apartments
R-PD, Residential Planned Development	Residential Planned Development
R-T, Residential-Trailer	Trailer Courts
C-1, Commercial 1	Limited Commercial
C-2, Commercial 2	General Commercial
C-3, Commercial 3	Unlimited Commercial
I-1, Industrial 1	Industrial

(Prior code 23-51)

Sec. 16-3-20. Zoning map.

The boundaries of the zoning districts are shown upon the district map of the City, entitled "zoning district map," which is now on file in the office of the City Clerk and which is by reference declared to be a part of this Chapter. (Prior code 23-52)

Sec. 16-3-30. Annexations.

(a) All territory which may be hereafter annexed to the City shall be classified and determined to be in one (1) of the use districts specified in Section 16-3-10, in accordance with the Master Plan of the City, as adopted and established for said territory. No other zoning designation shall be permitted until a public hearing is held for such purpose as specified for amendments in Article 25.

(b) An application for annexation to the City shall be accompanied by a land use application fee in the amount of seven hundred fifty dollars (\$750.00) and by a development review cash deposit in the amount of five thousand dollars (\$5,000.00). (Prior code 23-53; Ord. 15-10 §3, 2010)

Sec. 16-3-40. Use and density schedules.

The schedules of regulations in the following divisions applying to the use of the land; and the use, lot area, lot width, height, yards and setback of and about buildings, and all other matters contained herein, as indicated for the various districts established by this Chapter, are adopted and declared to be part of this Chapter and may be amended in the same manner as any other part of this Chapter. (Prior code 23-54)

Sec. 16-3-50. Lot area or width less than required.

Where a lot, as shown on a subdivision plat which was of record in the office of the county clerk and recorder on or before June 1, 1963, has a smaller area or less width, or a smaller area and less width, than the minimums required in this Chapter, the use of such lot or any building thereon, or the erection, conversion or structural alteration of a building or buildings thereon, shall be subject to the same requirements for a lot whose area and width conform to the minimums required in this Chapter. (Prior code 23-55)

Sec. 16-3-60. Area eighty percent or more than minimum.

Where the area of the lot is not less than the minimum required in this Chapter and the width of the lot is not less than eighty percent (80%) of the minimum required in this Chapter, the use of such lot or of any buildings thereon, or the erection, conversion or structural alteration of a building or buildings thereon, shall be subject to the same requirements for a lot whose area and width conform to the minimums required in this Chapter. (Prior code 23-56)

Sec. 16-3-70. Width eighty percent or more than minimum.

Where the width of the lot is not less than the minimum required in this Chapter and the area of a lot is not less than eighty percent (80%) of the minimum required in this Chapter, the use of such lot or of any buildings thereon, or the erection, conversion or structural alteration of a building or buildings thereon, shall be subject to the same requirements for a lot whose area and width conform to the minimums required in this Chapter. (Prior code 23-57)

Sec. 16-3-80. Front yard or through lot.

On a through lot, the front yard requirements of the district or districts in which such lot is located shall apply to each street frontage. (Prior code 23-58)

Sec. 16-3-90. Extensions into front yard.

Every part of a required frontage yard shall be open and not obstructed from its lowest point upward, except as provided in this Chapter, except for landscaping, fencing not prohibited by Section 16-20-10, open fire escapes and stairways, chimneys and one-story unenclosed porches which extend not more than eight (8) feet into the required front yard. (Prior code 23-59; Ord. 12-08 §1, 2008)

Sec. 16-3-100. Built-up area; front yard requirements.

If fifty percent (50%) or more of the main buildings within a built-up area in any district except the R-C district have less than the required front yard, no new main building need have a front yard greater than the average prevailing in the built-up area. If fifty percent (50%) or more of the main building is within a built-up area in any district having more than the required front yard, each new main building must have a front yard not less than the average prevailing in the built-up area, except that for the purpose of computing such average, a front yard in excess of fifty (50) feet shall be deemed to be fifty (50) feet. For the purposes of this Section, an area shall be deemed "built up" if fifty percent (50%) or more of the lots within two hundred (200) feet of each side lot line of any particular lot have been improved with buildings. (Prior code 23-60)

Sec. 16-3-110. Extensions into required side yard.

Chimneys, roof overhangs or cosmetic features may extend not more than two (2) feet into the required side yard. (Prior code 23-61)

Sec. 16-3-120. Extensions into required rear yard.

Chimneys and open fire escapes or stairways or cosmetic features may extend not more than eight (8) feet into a required rear yard. One-story enclosed or unenclosed porches, decks and patios may extend not more than twelve (12) feet into the required rear yard. (Prior code 23-62)

Sec. 16-3-130. Storage of dead human bodies.

(a) The storage of dead human bodies or any part thereof is prohibited in all residential zone districts and in all buildings, accessory buildings and other structures which are used for or are associated with residential purposes.

(b) The storage of dead human bodies or any part thereof is permitted in districts not zoned residential, and in buildings, accessory buildings, and other structures not used for residential purposes, only to the extent that such storage is clearly incidental to and commonly associated with, and is subordinate in area, extent and purpose to, a lawful principal use. By way of example and not by way of limitation, such a lawful principal use includes a funeral home, funeral chapel or mortuary.

(c) The following shall not be construed as storage within the meaning of this Section:

(1) The lawful interment of a dead human body in a lawful cemetery;

(2) The retention of the lawfully cremated remains of a dead human body;

(3) The temporary retention of a dead human body following a report made pursuant to Section 30-10-606(1.2), C.R.S., and prior to the taking of legal custody and removal of the body by the County Coroner; or

(4) The retention of a human body part which has been lawfully obtained and which is preserved or is otherwise in such a condition as not to pose a health hazard. (Prior code 23-63; Ord. 12-08 §1, 2008)

ARTICLE 4

R-A, Residential A District

Sec. 16-4-10. Permitted uses; conditional uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein, except for one (1) or more of the uses specified herein:

(1) One-family dwelling.

(2) Private garage.

(3) Public, private and parochial schools.

- (4) Churches and church schools.
- (5) Public libraries, public and private nonprofit museums.
- (6) Public parks and playgrounds and other public recreation facilities.
- (7) Accessory buildings or uses.
- (8) If approved by special permit issued pursuant to the procedures provided in Sections 16-25-40 through 16-25-80:
 - a. Governmental buildings and fire stations, but not including warehouses, storage or repair;
 - b. Telephone exchange, electric substations including electric transmission and distribution lines, or gas regulator stations where no public business office and no repair or storage facilities are maintained;
 - c. Public utility mains, lines and substations, where no public office or no repair or storage facilities are maintained; and
 - d. Water supply reservoirs. (Prior code 23-66; Ord. 22-09 §1, 2009)

Sec. 16-4-20. Height.

No principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed fifteen (15) feet in height. (Prior code 23-67)

Sec. 16-4-30. Area and minimum width of lot.

For every dwelling or other main building erected or structurally altered, there shall be provided a minimum lot area of not less than twelve thousand five hundred (12,500) square feet. The minimum width for such lot area shall be one hundred (100) feet for each dwelling or other main building; except that the minimum width for corner lots shall be one hundred fifteen (115) feet. (Prior code 23-68)

Sec. 16-4-40. Front yard.

The minimum depth of the front yard for dwellings and other main buildings shall be twenty-five (25) feet. Private garages shall have the same minimum front yard as the dwelling or other main building to which they are accessory. All other accessory buildings not otherwise listed herein shall be set back at least seventy-five (75) feet from the front lot line. (Prior code 23-69)

Sec. 16-4-50. Side yard.

The minimum width of side yards for any building shall be fifteen (15) feet on each side. On corner lots, buildings shall not be constructed within twenty-five (25) feet of the street side lot line. (Prior code 23-70)

Sec. 16-4-60. Rear yard.

The minimum depth of the rear yard shall be thirty (30) feet from the rear of the main building, and no accessory building shall be built closer than ten (10) feet from the rear lot line. (Prior code 23-71)

Sec. 16-4-70. Lot coverage.

Not more than thirty-five percent (35%) of the area of a lot shall be covered by the main buildings and accessory buildings. (Prior code 23-72)

ARTICLE 5

R-B, Residential B District

Sec. 16-5-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein, except for one (1) or more of the uses specified herein: All uses permitted in the R-A District. (Prior code 23-81)

Sec. 16-5-20. Height.

No principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed fifteen (15) feet in height. (Prior code 23-82)

Sec. 16-5-30. Area and minimum width of lot.

For every dwelling or other main building erected or structurally altered, there shall be provided a minimum lot area of not less than nine thousand (9,000) square feet. The minimum width for such lot area shall be seventy-five (75) feet for each dwelling or other main building, except that the minimum width for corner lots shall be ninety-five (95) feet. (Prior code 23-83)

Sec. 16-5-40. Front yard.

The minimum depth of front yard for dwellings and other main buildings shall be twenty-five (25) feet. Private garages shall have the same minimum front yard as the dwelling or other main building to which they are accessory. All other accessory buildings not otherwise listed herein shall be set back at least sixty (60) feet from the front lot line. (Prior code 23-84)

Sec. 16-5-50. Side yard.

The minimum width of side yards for any building shall be ten (10) feet on each side. On corner lots, buildings shall not be constructed within twenty-five (25) feet of the street side lot line. (Prior code 23-85)

Sec. 16-5-60. Rear yard.

The minimum depth of the rear yard shall be twenty (20) feet from the rear of the dwelling or the main building, and no accessory building or structure shall be closer than two (2) feet to the rear lot line or alley right-of-way line, if any, except that any garage which has vehicular ingress and egress through the rear lot line to the alley and which has an angle between the rear lot line and the wall of the garage containing the vehicle access door of less than forty-five (45) degrees, shall not be located any closer than eight (8) feet from the rear lot line or alley right-of-way line, if any. (Prior code 23-86)

Sec. 16-5-70. Lot coverage.

Not more than thirty-five percent (35%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-87)

ARTICLE 6

R-1, Residential 1 District

Sec. 16-6-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) All uses permitted in the R-A district.
- (2) Preschool and day nurseries for infants and preschool children. (Prior code 23-96)

Sec. 16-6-20. Height.

No principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed fifteen (15) feet in height. (Prior code 23-97)

Sec. 16-6-30. Area and minimum width of lot.

For every dwelling or other main building erected or structurally altered, there shall be provided a minimum lot area of not less than six thousand (6,000) square feet. The minimum width for such lot area shall be fifty (50) feet for each dwelling or other main building, except that the minimum width for a corner lot shall be seventy-five (75) feet. (Prior code 23-98)

Sec. 16-6-40. Front yard.

The minimum depth of the front yard for dwellings and other main buildings shall be twenty-five (25) feet. Private garages shall have the same minimum front yard as the dwelling or other main building to which they are accessory. All other accessory buildings not otherwise listed herein shall be set back at least sixty (60) feet from the front lot line. (Prior code 23-99)

Sec. 16-6-50. Side yard.

The minimum width of side yards for any building shall be five (5) feet on each side. On corner lots, buildings shall not be constructed within twenty-five (25) feet of the street side lot line. (Prior code 23-100)

Sec. 16-6-60. Rear yard.

The minimum depth of the rear yard shall be twenty (20) feet from the rear of the dwelling or the main building, and no accessory building or structure shall be closer than two (2) feet to the rear lot line or alley right-of-way line, if any, except that any garage which has vehicular ingress and egress through the rear lot line to the alley and which has an angle between the rear lot line and the wall of the garage containing the vehicle access door of less than forty-five (45) degrees, shall not be located any closer than eight (8) feet from the rear lot line or alley right-of-way line, if any. (Prior code 23-101)

Sec. 16-6-70. Lot coverage.

Not more than thirty-five percent (35%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-102)

ARTICLE 7

R-2, Residential 2 District

Sec. 16-7-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein, except for one (1) or more of the uses as specified herein:

- (1) All uses permitted in the R-1 District.
- (2) Two-family dwellings. (Prior code 23-111)

Sec. 16-7-20. Height.

No principal building shall exceed thirty-five (35) feet in height. No accessory building shall exceed fifteen (15) feet in height. (Prior code 23-112)

Sec. 16-7-30. Area and minimum width of lot.

For every one-family dwelling, there shall be provided a minimum lot area of not less than five thousand (5,000) square feet; for two-family dwellings and main buildings other than dwellings, there shall be provided a minimum lot area of not less than nine thousand (9,000) square feet. The minimum width for such lot area shall be fifty (50) feet for each one-family dwelling and not less than ninety (90) feet for each two-family dwelling or main building other than a dwelling, where the width of that lot in all cases is measured along a public street or at the setback line from such public

street, except that the minimum width of a corner lot for a one-family dwelling shall be seventy-five (75) feet and the minimum width of corner lots for two-family dwellings and other main buildings shall be one hundred five (105) feet. (Prior code 23-113)

Sec. 16-7-40. Front yard.

The minimum depth of the front yard for dwellings and other main buildings shall be twenty-five (25) feet. Private garages shall have the same minimum front yard as the dwelling or other main building to which they are accessory. All other accessory buildings not otherwise listed herein shall be set back at least sixty (60) feet from the front lot line. (Prior code 23-114)

Sec. 16-7-50. Side yard.

The minimum width of side yards for any building shall be five (5) feet on each side. On corner lots, buildings shall not be constructed within twenty-five (25) feet of the street side lot line. (Prior code 23-115)

Sec. 16-7-60. Rear yard.

The minimum depth of the rear yard shall be twenty (20) feet from the rear of the dwelling or the main building, and no accessory building or structure shall be closer than two (2) feet to the rear lot line or alley right-of-way line, if any, except that any garage which has vehicular ingress and egress through the rear lot line to the alley, and which has an angle between the rear lot line and the wall of the garage containing the vehicle access door of less than forty-five (45) degrees, shall not be located any closer than eight (8) feet from the rear lot line or alley right-of-way line, if any. (Prior code 23-116)

Sec. 16-7-70. Lot coverage.

Not more than thirty-five percent (35%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-117)

ARTICLE 8

R-3, Residential 3 District

Sec. 16-8-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein, except for one (1) or more of the uses specified herein, and expressly restricted to those areas served by public water and sewer facilities:

- (1) All uses permitted in the R-2 District, except single-family dwellings.
- (2) Multiple-family dwellings, including duplexes.
- (3) Parking spaces for clients, patients, patrons or customers of the adjacent commercial districts, if approved by a special permit issued pursuant to the procedures provided in Sections

16-25-40 through 16-25-80. No such permit shall be issued unless the applicant establishes that the use will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof or to the public welfare, and will not substantially impair the use, enjoyment or value of any property.

(4) Boarding and rooming houses.

(5) Hospitals, but not including hospitals for the mentally disturbed, the mentally ill or for contagious or infectious diseases.

(6) Rest homes, convalescent homes and nursing homes.

(7) Private clubs, fraternities and lodges, except those the chief activity of which is a service customarily carried on as a business. (Prior code 23-126; Ord. 12-08 §1, 2008)

Sec. 16-8-20. Height.

No building shall exceed thirty-five (35) feet in height. (Prior code 23-127)

Sec. 16-8-30. Area and minimum width of lot.

(a) The minimum lot area for any main building other than dwellings shall be five thousand (5,000) square feet. The minimum lot area for each separate multiple-family dwelling of more than two (2) units shall be nine thousand (9,000) square feet, plus one thousand two hundred fifty (1,250) square feet for each unit above two (2) units. The minimum lot area for a two-family dwelling shall be seven thousand five hundred (7,500) square feet.

(b) The minimum width of the lot for a two-family dwelling shall be seventy-five (75) feet. The minimum width of the lot for a multiple-family dwelling other than a two-family dwelling shall be ninety (90) feet. The minimum width of the lot for any main building other than dwellings shall be fifty (50) feet, except that on a corner lot, the minimum width for two-family dwellings shall be ninety-five (95) feet, and except that the minimum width for multiple-family dwellings of more than two (2) units on a corner lot shall be one hundred five (105) feet, and the minimum width for all other main buildings on a corner lot shall be seventy-five (75) feet. (Prior code 23-128)

Sec. 16-8-40. Front yard.

The minimum depth of the front yard for dwellings and other main buildings shall be twenty-five (25) feet. Private garages shall have the same minimum front yard as the dwelling or other main building to which they are accessory. All other accessory buildings not otherwise listed herein shall be set back at least sixty (60) feet from the front lot line. (Prior code 23-129)

Sec. 16-8-50. Side yard.

The minimum width of side yards for any two-family dwelling and buildings other than dwellings shall be five (5) feet on each side, except that on corner lots two-family dwellings shall not be constructed within twenty-five (25) feet of the street side lot line. The minimum width of side yards for any multiple-family dwelling of more than two (2) units shall be fifteen (15) feet, except on corner

lots, where multiple-family dwellings and buildings other than two-family dwellings shall not be constructed within twenty-five (25) feet of the street side lot line. (Prior code 23-130)

Sec. 16-8-60. Rear yard.

The minimum depth of the rear yard shall be fifteen (15) feet from the rear of the dwelling or the main building, and no accessory building or structure shall be closer than two (2) feet to the rear lot line or alley right-of-way line, if any, except that any garage which has vehicular ingress and egress through the rear lot line to the alley and which has an angle between the rear lot line and the wall of the garage containing the vehicle access door of less than forty-five (45) degrees, shall not be located any closer than eight (8) feet from the rear lot line or alley right-of-way line, if any. (Prior code 23-131)

Sec. 16-8-70. Lot coverage.

No more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-132)

ARTICLE 9

R-C1, Residential-Commercial 1 District

Sec. 16-9-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) Business or professional offices, including clinics.
- (2) Places of amusement or recreation, provided they are used primarily for commercial purposes.
- (3) Service establishments employing not more than three (3) people, such as barbershops, beauty parlors, establishments for watch and jewelry repairing, pharmacies, pickup stations for laundry or dry cleaning, and establishments for repair of small electrical appliances, televisions, videocassette recorders, cameras or radios.
- (4) Community buildings, private schools, mortuaries, homes for the aged, convalescent or nursing homes, hospitals, but not including hospitals for the mentally disturbed, the mentally ill, for contagious or infectious diseases, libraries, golf courses, private clubs and museums.
- (5) Parking of automobiles of clients, patients, patrons or customers of the occupants, or adjacent commercial districts.
- (6) Living quarters for not more than one (1) family in a building.
- (7) If approved by the Board of Adjustments as hereinafter provided:

a. Governmental buildings and fire stations, but not including warehouses, storage or repair.

b. Telephone exchanges, electric substations including electric transmission and distribution lines, or gas regulator stations where no public business office and no repair or storage facilities are maintained.

c. Public utility mains, lines and substations, where no public office or no repair or storage facilities are maintained.

d. Water supply reservoirs.

(8) Other such similar uses which are not more detrimental to the highest and best uses of the land in said district than are the uses enumerated in this Section, but not including any use permitted in any residential zoned districts. (Prior code 23-141; Ord. 12-08 §1, 2008)

Sec. 16-9-20. Height.

No building shall exceed thirty-five feet (35) feet in height, except as follows:

(1) Buildings located on 25th Avenue and on 20th Avenue from Sheridan Boulevard to Depew Street shall not exceed three (3) stories or forty-five (45) feet in height, whichever is less; and

(2) Buildings located on Sheridan Boulevard shall not exceed six (6) stories or seventy-five (75) feet in height, whichever is less. (Prior code 23-142)

Sec. 16-9-30. Area and minimum width of lot.

The area and minimum width of lot regulations are as follows: None. (Prior code 23-143)

Sec. 16-9-40. Front yard.

The minimum depth of the front yard for any building shall be thirty (30) feet, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum front yard unless otherwise required by the building code. (Prior code 23-144)

Sec. 16-9-50. Side yard.

(a) If the building is constructed of masonry or otherwise fireproof material, no side yard is required, except on a corner lot. For a building constructed of a material other than fireproof material, there shall be a side yard of five (5) feet.

(b) On a corner lot, the minimum side yard shall be thirty (30) feet on the street side lot line, except that buildings on corner lots on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum side yard on corner lots unless otherwise required by the building code. (Prior code 23-145; Ord. 12-08 §1, 2008)

Sec. 16-9-60. Rear yard.

The minimum depth of the rear yard shall be ten (10) feet, except where the rear yard abuts a public alley, then the minimum depth shall be fifteen (15) feet to the center of the alley. (Prior code 23-146)

Sec. 16-9-70. Lot coverage.

Not more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-147)

ARTICLE 10

R-C2, Residential-Commercial 2 District

Sec. 16-10-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) Multiple-family dwellings, provided that they are located above the first story.
- (2) Stores for retail trade, but not including lumber yards, fuel or feed stores, secondhand establishments, pawnshop establishments or adult entertainment establishments.
- (3) Office uses.
- (4) Personal service establishments such as cleaning and pressing establishments, barbershops, beauty parlors and restaurants, provided that the services of such establishments are confined within a building, unless specifically shown on an approved site development plan.
- (5) Other similar uses that are not more detrimental to the highest and best uses of land in said district than are the uses enumerated in this Section, but not including any use permitted in any residential zoned districts except as stated in Subsection (1) hereof. (Prior code 23-156)

Sec. 16-10-20. Height.

No building shall exceed forty (40) feet in height, except for those buildings located on Sheridan Boulevard which shall not exceed sixty-five (65) feet in height. (Prior code 23-157)

Sec. 16-10-30. Area and minimum width of lot.

Area and minimum width of lot regulations are as follows: None. (Prior code 23-158)

Sec. 16-10-40. Front yard.

The minimum depth of the front yard for any building shall be as required by the building code, except that the minimum depth of front yard for any building on Sheridan Boulevard shall be ten (10) feet. (Prior code 23-159)

Sec. 16-10-50. Side yard.

(a) If the building is constructed of masonry or otherwise fireproof material, no side yard is required except on a corner lot. For a building constructed of a material other than fireproof material, there shall be a side yard of five (5) feet.

(b) On a corner lot, the minimum side yard shall be twenty (20) feet on the street side lot line, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum side yard on corner lots unless otherwise required by the building code. (Prior code 23-160)

Sec. 16-10-60. Rear yard.

The minimum depth of a rear yard shall be ten (10) feet, except that where the rear yard abuts a public alley, then the minimum depth shall be fifteen (15) feet to the center of the alley, and except that where the rear yard abuts a public street the minimum yard shall be thirty (30) feet or one-half (½) the height of the highest building, whichever is greater. The minimum setback shall be twenty (20) feet if the rear yard abuts single-family residential property. (Prior code 23-161)

Sec. 16-10-70. Lot coverage.

Not more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-162)

Sec. 16-10-80. Open space and landscaping.

(a) A minimum of sixty (60) square feet of private open space shall be provided for each dwelling unit. This may include private yard patios or decks, but shall not include any common entry areas.

(b) A minimum of fifteen percent (15%) of the area of the lot shall be landscaped. (Prior code 23-163)

Sec. 16-10-90. Parking requirements.

Off-street parking shall be provided to meet the following minimum requirements:

- (1) One and one-half (1½) parking spaces for each dwelling unit.
- (2) Office and retail uses shall have one (1) parking space for each five hundred (500) square feet of office or retail space.

(3) Restaurants shall have one (1) parking space for each three hundred (300) square feet of dining, bar or patron area. (Prior code 23-164)

Sec. 16-10-100. Development plans.

All property zoned R-C2 that is developed, redeveloped or otherwise modified shall be required to have an approved site development plan in accordance with Chapter 17, Article 4. (Prior code 23-165)

ARTICLE 11

R-4, Residential 4 District

Sec. 16-11-10. Permitted accessory uses.

The regulations for the R-4 District are designed to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life composed predominantly of an adult population and to prohibit all activities of a commercial nature except certain enumerated facilities maintained for the convenience of the residents. To these ends, this District is protected against encroachment of business or industrial uses while the regulations permit high-density development consistent with high concentration of persons and land valuation. No building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) The principal permitted use and structure will house an excess of fifty (50) dwelling units.
- (2) Retail sales facilities not otherwise readily available to the occupants and tenants of the structure.
- (3) Accessory uses will normally include only service-type facilities for the occupants and tenants, but retail sales facilities open to the public may be approved by special permit issued pursuant to the procedures provided in Sections 16-25-40 through 16-25-80, provided that such retail sales facilities meet the following conditions.
 - a. They are provided primarily for the convenience of the owner and/or tenants.
 - b. Do not have signs of any type visible from any street.
 - c. Do not have separate outside entrances.
- (4) Such accessory uses shall be construed to include a restaurant or lounge when operated in conjunction with the primary use of the structure.
- (5) Educational and training uses which are compatible with the principal use of the building or improvement. Such uses shall be approved by special permit issued pursuant to procedures provided in Sections 16-25-40 through 16-25-80, including the following information:
 - a. Entry and exit areas.

- b. The area of the special uses in relationship to the total area of the building or improvement.
- c. On and off-street parking.
- d. Vehicular circulation and vehicular "drop-off" and "pick-up" facilities.
- e. Noise.
- f. Hours of operation.
- g. Numbers of students, staff, volunteers, teachers or trainers.
- h. Signage.
- i. Lighting.
- j. Compliance with all applicable provisions of this Code.
- k. Evaluation, comments and recommendations of the Mayor, City departments and staff members.
- l. Compatibility with the uses of the principal building or improvements, and the property uses within the neighborhood within a reasonable distance from the subject property.
- m. Length of time of the proposed uses.
- n. Any other matters deemed necessary by the City Council related to Section 16-1-30.

If granted, such special use shall not run with the land, shall be limited to the user of the property and shall cease immediately upon termination of such use by the user, or upon noncompliance with the terms of the use granted by City Council;

(6) Offices which are compatible with and accessory to the principal use of the building or improvement, and which are occupied only by the owner of the building or improvement. Such uses shall be granted only by special review and approval by the City Council following the notice and public hearing procedures as provided for in Sections 16-25-40 through 16-25-80. The City Council shall consider, but not be limited to, the criteria provided in Subparagraphs (5)a. through n. hereof in considering such uses, except that "number of employees, visitors and other occupants" shall be substituted for Subparagraph g. The City Council may reject, approve or approve with conditions a request for such special uses. If granted, such special uses shall not run with the land, shall be limited to the owner of the property who made the request, and shall cease immediately upon termination of such uses by said owner, any transfer of ownership of the building or improvement, or any noncompliance with the conditions of such uses imposed by the City Council in connection with its approval.

(7) Telephone exchange facilities where no public business office and no repair or storage facilities are maintained. No such use shall be permitted or continued if it causes or results in any interference with any existing uses in the area of the building or improvement. Such a use shall be

granted only by special review and approval by motion of the City Council following compliance with the notice and public hearing procedures of Sections 16-25-40 through 16-25-70. The City Council shall consider, but not be limited to, the criteria provided in Subparagraphs (5)b., e., j., k., l., m., and n. hereof in considering a request for such a use. The City Council may reject, approve or approve with conditions, a request for such a special use. If granted, such a special use shall not run with the land, shall be permitted only for the specific applicant for whom the use was approved, and shall cease immediately upon termination of such use by said applicant, or in the event of any noncompliance with the conditions of such uses imposed by the City Council in connection with its approval. (Prior code 23-171)

Sec. 16-11-20. Height.

The height regulation shall be as follows: None. (Prior code 23-172)

Sec. 16-11-30. Area and minimum width of lot.

The minimum lot area for any multiple dwelling shall be fifty thousand (50,000) square feet and shall contain not more than fifty (50) living units. For each additional unit in excess of fifty (50), there shall be an additional minimum lot area of eight hundred (800) square feet. The minimum width of lot for any multiple dwelling shall be one hundred (100) feet, except that on corner lots, the minimum width of lot shall be one hundred fifteen (115) feet. (Prior code 23-173)

Sec. 16-11-40. Front yard.

The minimum depth of the front yard for any building shall be thirty (30) feet or one-half ($\frac{1}{2}$) of the height of the highest dwelling, whichever is greater. No part of the front yard established by the required setback may be used for off-street parking. Private garages shall have the same minimum front yard as the building to which they are accessory. All other accessory buildings shall be set back at least forty-five (45) feet from the front lot line or three-fourths ($\frac{3}{4}$) of the height of the highest dwelling, whichever is greater. (Prior code 23-174)

Sec. 16-11-50. Side yard.

The minimum width of the side yard for any building shall be fifteen (15) feet or one-fourth ($\frac{1}{4}$) of the height of the highest main building, whichever is greater, except that, on corner lots, the minimum side yard shall be thirty (30) feet or one-half ($\frac{1}{2}$) of the height of the highest dwelling, whichever is greater. The side yard for accessory buildings shall be five (5) feet, except that, on a corner lot, the minimum side yard shall be thirty (30) feet. No part of the side yard that abuts a street may be used for off-street parking. (Prior code 23-175)

Sec. 16-11-60. Rear yard.

The minimum width of the rear yard for any building shall be fifteen (15) feet or one-fourth ($\frac{1}{4}$) of the height of the highest main building, whichever is greater, except that, on corner lots, the minimum rear yard shall be thirty (30) feet or one-half ($\frac{1}{2}$) of the height of the highest main building, whichever is greater. The rear yard for accessory buildings shall be five (5) feet, except that, on a corner lot, the minimum rear yard shall be thirty (30) feet. No part of the rear yard that abuts a street may be used for off-street parking. (Prior code 23-176)

ARTICLE 12

R-PD, Residential Planned Development District

Sec. 16-12-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

(1) All uses permitted in the R-2 District.

(2) Multiple-family dwellings including duplexes, townhouses, condominiums and apartments. (Prior code 23-177)

Sec. 16-12-20. Height.

No building shall exceed forty-five (45) feet in height. (Prior code 23-178)

Sec. 16-12-30. Setbacks.

(a) No setbacks are required from the property line for the principal building, except as required to meet the building code.

(b) Any garage must be set back a minimum of twenty (20) feet from the back of the sidewalk of the street in front of the garage entrance. (Prior code 23-179)

Sec. 16-12-40. Density.

The maximum density shall be twenty (20) dwelling units per gross acre of the development. (Prior code 23-180)

Sec. 16-12-50. Lot coverage.

Not more than forty-five percent (45%) of the area of the lot or development shall be covered by the main building and all accessory buildings. (Prior code 23-181)

Sec. 16-12-60. Landscaping.

A minimum of twenty percent (20%) of the area of the lot or development shall have and be maintained as landscaping. (Prior code 23-182)

Sec. 16-12-70. Parking.

Off-street parking shall equal one and one-half (1½) vehicles per dwelling unit. The total amount of parking provided shall equal two and one-half (2½) vehicles per dwelling unit. (Prior code 23-183)

Sec. 16-12-80. Subdivision and development plan.

(a) All R-PD developments shall be subject to the regulations and criteria of Chapter 17, Article 4.

(b) In addition, all other requirements, standards and regulations of Chapter 17 shall apply to subdivisions within the district, except to the extent such requirements, standards and regulations may be modified in the site development plan. (Prior code 23-184)

ARTICLE 13

R-T, Residential-Trailer District

Sec. 16-13-10. Definitions.

As used in this Article, the following words, terms and phrases shall have the meanings respectively ascribed to them in this Section, unless the context clearly indicates otherwise:

Space means a plot of ground in a trailer camp not less than two thousand four hundred (2,400) square feet of space designed for the location of only one (1) trailer and one (1) or more automobiles, and to include an access road.

Trailer means any coach, cabin, mobile home, housecar or other vehicle or structure intended for or capable of human dwelling or sleeping purposes, mounted upon wheels or supports, or supported or capable of being moved by its own power or transported by another vehicle.

Trailer camp means any park, court, camp, site, plot, parcel or tract of land, designed, maintained, intended or used for the purpose of supplying a location or accommodation for two (2) or more trailers, and includes buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the trailer camp or its facilities. *Trailer camp* does not include automobile or trailer sales lots on which unoccupied trailers are parked for inspection and sale.

Unit means a trailer unit. (Prior code 23-186)

Sec. 16-13-20. Location outside camps.

(a) It is unlawful for any person to place, keep or maintain any automobile trailer or housecar, other than for storage, upon any lot, piece or parcel of ground, within the City, except in a legal trailer camp. However, this Section shall not be construed to prevent the placing, parking or keeping of an automobile trailer or housecar within the City for a period of two (2) weeks from the time that such trailer or housecar first arrives within the City; provided that, during such time, an adequate water supply and adequate toilets are available at all times to the occupants of the trailer and that a special permit is obtained for such purpose from the Building Inspector. This exception is especially intended to provide for guests of citizens, but in no case shall this exception extend beyond the two-week limitation as herein stated.

(b) Any automobile trailer or housecar which is parked on private premises merely for storage purposes shall also be excepted from this Section. (Prior code 23-187)

Sec. 16-13-30. Wheel removal; remodeling and additions.

(a) Any action toward the removal of wheels except for temporary purposes of repairs, or other action to attach the trailer to the ground by means of posts, piers or foundations, shall subject the trailer to the requirements of the building code as well as the zoning regulations.

(b) This Section is not be construed as prohibiting necessary stabilizing jacks or blocks.

(c) No house trailers may be remodeled by additions, lean-tos or the like, for the purpose of converting the same to a residence. The use of temporary awnings and cabanas or other factory-built, fireproofed or permanent additions shall not be considered as such remodeling.

(d) Permits for additions of cabanas shall be by approval of the Board of Adjustment. (Prior code 23-188)

Sec. 16-13-40. Trailer camp plan.

(a) Every trailer or trailer camp shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No trailer or trailer camp shall be located in any area that is situated so that drainage from any barnyard, outdoor toilet or other source of filth can be deposited in its location.

(b) Trailer spaces shall be clearly defined and shall consist of a minimum of two thousand four hundred (2,400) square feet and a width of not less than twenty-five (25) feet.

(c) The camp shall be so arranged that all spaces shall face or abut on driveway of not less than thirty (30) feet in width, unless adequate, hard surface off-street parking is provided, in which case the driveway shall not be less than twenty (20) feet in width. Such driveway shall be graveled or paved and maintained in good condition.

(d) Requests for a new R-T District shall be accompanied by a preliminary plat, and the City Council may approve the rezoning subject to approval of a final plat. Said plat shall consist of the following:

- (1) Plot plan of total area to be used as a trailer park.
- (2) Description of land to be rezoned.
- (3) Location of each existing and proposed structure.
- (4) Location area, and dimensions of each trailer space.
- (5) Location and dimensions of all roads and driveways. (Prior code 23-189)

Sec. 16-13-50. Permitted uses.

The following uses are permitted in R-T Districts:

- (1) One-family houses for the camp owner or caretaker.
- (2) Laundry rooms.
- (3) Toilet rooms.
- (4) Shower and bath houses.
- (5) Trailer park offices.
- (6) Recreation rooms for park residents only.
- (7) One (1) advertising sign only, not to exceed twenty-five (25) square feet for purposes of park advertising only, and to be located not closer to the front or side setback line than twenty (20) feet. Such sign shall not emit any glaring or flashing light.
- (8) Light and power poles for purposes of serving auto trailer camp only. (Prior code 23-190)

Sec. 16-13-60. Height.

No building or structure, including signs, shall exceed a height of twenty-five (25) feet. (Prior code 23-191)

Sec. 16-13-70. Area between trailers.

No occupied trailer shall be located less than ten (10) feet from any building or other trailer. (Prior code 23-192)

Sec. 16-13-80. Front yard.

The minimum depth of the front yard for dwelling trailers and other main buildings shall be fifty (50) feet. Accessory buildings shall be set back at least one hundred (100) feet from the front lot line. (Prior code 23-193)

Sec. 16-13-90. Side yard.

The minimum width of the side yard shall be fifty (50) feet. No trailer or building shall be located less than the minimum required distance from any side yard. (Prior code 23-194)

Sec. 16-13-100. Rear yard.

The minimum depth of the rear yard shall be fifty (50) feet. No trailer or building shall be located less than the minimum required distance from rear property lines. (Prior code 23-195)

Sec. 16-13-110. Area exemptions.

The use of the prescribed minimum yards for recreation purposes, clothes-drying equipment, playground equipment and service roads will be permitted. The setback area may be included in computing the area trailer spaces; provided that no trailer shall be parked in said area; and provided that, if the trailer park is located with side yard or rear yard abutting a commercial or industrial zoned land or a natural topographic barrier, the minimum yard requirement shall be not less than fifteen (15) feet. (Prior code 23-196; Ord. 12-08 §1, 2008)

Sec. 16-13-120. Existing camps.

(a) The land occupied by all trailer camps or units licensed by the State as auto and tourist camps, which have received a permit from the Health Department, and which were in existence at the time of the passage of the ordinance codified herein and were in conformity with prior ordinances, shall be rezoned R-T Residential Trailer District by this Chapter upon compliance with the provisions of Subsection (b) below; provided, however, that trailer camps in existence on the effective date of the ordinance codified herein which have trailer spaces, buildings, signs or other installations having a width, area, setback or height not in conformity with that herein prescribed may continue to operate with existing trailer spaces, buildings, signs or other installations.

(b) Such trailer camp or unit shall register with the Planning and Zoning Commission within thirty (30) days of the effective date of the ordinance codified herein setting forth:

- (1) The number of the State license issued for the camp;
- (2) The legal description of the property occupied by such camp;
- (3) The number of trailer units in the camp; and
- (4) The number and description of accessory buildings in the camp.

Upon receipt of the above information, the Planning and Zoning Commission shall, upon verification of the information obtained therein, direct the City Council to make the necessary zoning map changes from the existing zoning district in which the camp is located to an R-T District. (Prior code 23-197)

ARTICLE 14

C-1, Commercial 1 District

Sec. 16-14-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) Stores for retail trade and distribution and processing of dairy products.

- (2) Business or professional offices.
- (3) Assembly halls and places of amusement or recreation, provided that they are used primarily for commercial purposes.
- (4) Commercial signs, electric display and advertising signs, subject to the requirements set forth in Article 19.
- (5) Service establishments, such as cleaning and pressing establishments, barbershops, beauty parlors and restaurants.
- (6) Cold storage lockers (but not including slaughtering on the premises).
- (7) Hotels, taverns, package liquor stores or outlets, licensed tourist courts (but not including trailer courts or camps), provided that all sanitary regulations in effect in the City are complied with, in places serving food or beverages.
- (8) A parking lot for revenue.
- (9) Other similar uses which are not more detrimental to the highest and best use of the land in said district than are the uses enumerated in this Section, but not including any uses permitted in any residential zoned districts.
- (10) Indoor storage or warehousing of materials shall be permitted only to the extent the same is clearly incidental to and commonly associated with, and is subordinate in area, extent and purpose to, the principal commercial use of the building or land as permitted hereinabove. As used in this Subsection, *storage* or *warehousing* means the act of depositing goods, wares or merchandise in any structure or part of a structure. (Prior code 23-206)

Sec. 16-14-20. Height.

No building shall exceed forty (40) feet in height, except for those buildings located on Sheridan Boulevard, which shall not exceed forty-five (45) feet in height. (Prior code 23-207)

Sec. 16-14-30. Area and minimum width of lot.

Area and minimum width of lot requirements are as follows: None. (Prior code 23-208)

Sec. 16-14-40. Front yard.

The minimum depth of the front yard for a main building shall be thirty (30) feet or one-half (½) of the height of the highest building, whichever is greater, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum front yard unless otherwise required by the building code. The minimum depth of the front yard for an accessory building shall be thirty (30) feet. (Prior code 23-209)

Sec. 16-14-50. Side yard.

(a) Except for buildings located on 25th Avenue or Sheridan Boulevard, if the building is thirty-five (35) feet or less in height, no side yard is required, except on a corner lot.

(b) Except for buildings located on 25th Avenue or Sheridan Boulevard, if the building is over thirty-five (35) feet in height, no side yard is required for the first thirty-five (35) feet, or less, in height, and a two-foot side yard shall be required for each ten (10) feet in height above thirty-five (35) feet.

(c) For buildings located on 25th Avenue, on Sheridan Boulevard, and on 20th Avenue from Sheridan Boulevard to Depew Street, no side yard is required unless otherwise required by the building code.

(d) On corner lots, the minimum side yard for main building shall be thirty (30) feet or one-half (½) the height of the main building, whichever is greater, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum side yard on corner lots unless otherwise required by the building code.

(e) On corner lots, the minimum side yard for accessory buildings shall be thirty (30) feet. (Prior code 23-210)

Sec. 16-14-60. Rear yard.

The minimum depth of the rear yard shall be ten (10) feet, except where the rear abuts a public alley, then the minimum depth shall be fifteen (15) feet to the center of the alley. (Prior code 23-211)

Sec. 16-14-70. Lot coverage.

Not more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-212)

Sec. 16-14-80. Pawnshop location restrictions.

(a) No pawnshop shall be established, operated or maintained within one thousand five hundred (1,500) feet of any public or private school, including without limitation, a preschool, day care center or elementary, secondary or high school; provided however, that this provision shall not apply to those pawnshops established, operated and maintained as of the effective date of this requirement in their present locations and within their present configurations. Said one-thousand-five-hundred-foot distance shall be measured directly and horizontally from the property line of the school and the property line of the pawnshop.

(b) No pawnshop shall be any closer in distance than one thousand five hundred (1,500) feet from any other established, operated or maintained pawnshop; provided however, that this provision shall not apply to those pawnshops established, operated and maintained as of the effective date of this requirement in their present locations and within their present configurations. Said one-thousand-five-hundred-foot distance shall be measured directly and horizontally from the property line of the existing pawnshop to the property line of the proposed pawnshop. (Prior code 23-213)

Sec. 16-14-90. Adult entertainment establishment location restrictions.

(a) No adult entertainment establishment shall be established, operated or maintained within one thousand (1,000) feet of any public or private school, including without limitation, a preschool, day care center or elementary, secondary or high school. Said one-thousand-foot distance shall be measured directly and horizontally from the property line of the school and the property line of the adult entertainment establishment.

(b) Any adult entertainment establishment shall not be any closer in distance than one thousand (1,000) feet from any other adult entertainment establishment. Said one-thousand-foot distance shall be measured directly and horizontally from the property line of the existing adult entertainment establishment to the property line of the proposed adult entertainment establishment. (Prior code 23-214)

Sec. 16-14-100. Deferred deposit lender establishment location restrictions.

(a) No deferred deposit lender establishment shall be established, operated or maintained within five hundred (500) feet of any bank, savings and loan association, credit union, church or public or private school, including without limitation, any preschool, daycare center or elementary, secondary or high school.

(b) No deferred deposit lender business shall be established, operated or maintained within one thousand (1,000) feet of any existing deferred lender establishment.

(c) For purposes of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the deferred deposit lender establishment is located to the nearest outer property line of the property on which the bank, savings and loan association, credit union, church, school or other deferred deposit lender establishment is located. (Prior code 23-215; Ord. 10-06 §3, 2006)

ARTICLE 15

C-2, Commercial 2 District

Sec. 16-15-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) Any use permitted in the C-1 District.
- (2) Amusement parks.
- (3) Veterinary hospitals.
- (4) Shops for custom work or for making articles to be sold at retail on the premises.

- (5) Wholesale businesses.
- (6) Cold storage plants.
- (7) Signs, subject to the regulations of Article 19.
- (8) Automobile sale and service buildings, where repairs are made in the rear one-half (½) of the building; lots for the display and sale of automobiles.
- (9) Automobile repair shops where minor repairs are made and where no repairs are made to fenders and bodies of motor vehicles;
- (10) Automobile service stations;
- (11) Other similar uses which are no more detrimental to the highest and best uses of land in the C-2 District than are the uses enumerated in this Section, but not including any use permitted in any residential zoned districts. (Prior code 23-221)

Sec. 16-15-20. Height.

No building shall exceed forty (40) feet in height, except for those buildings located on Sheridan Boulevard, which shall not exceed forty-five (45) feet in height. (Prior code 23-222)

Sec. 16-15-30. Area and minimum width of lot.

Area and minimum width of lot requirements shall be as follows: None. (Prior code 23-223)

Sec. 16-15-40. Front yard.

The minimum depth of the front yard for a main building shall be thirty (30) feet or one-half (½) of the height of the highest building, whichever is greater, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum front yard unless otherwise required by the building code. The minimum depth of the front yard for an accessory building shall be thirty (30) feet. (Prior code 23-224)

Sec. 16-15-50. Side yard.

(a) Except for buildings located on 25th Avenue or Sheridan Boulevard, if the building is thirty-five (35) feet or less in height, no side yard is required, except on a corner lot.

(b) Except for buildings located on 25th Avenue or Sheridan Boulevard, if the building is over thirty-five (35) feet in height, no side yard is required for the first thirty-five (35) feet, or less, in height, and a two-foot side yard shall be required for each ten (10) feet in height above thirty-five (35) feet.

(c) For buildings located on 25th Avenue, on Sheridan Boulevard, and on 20th Avenue from Sheridan Boulevard to Depew Street, no side yard is required unless otherwise required by the building code.

(d) On corner lots, the minimum side yard for main building shall be thirty (30) feet or one-half ($\frac{1}{2}$) the height of the main building, whichever is greater, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum side yard or corner lots unless otherwise required by the building code.

(e) On corner lots, the minimum side yard for accessory buildings shall be thirty (30) feet. (Prior code 23-225)

Sec. 16-15-60. Rear yard.

The minimum depth of the rear yard shall be ten (10) feet, except where the rear abuts a public alley, then the minimum depth shall be fifteen (15) feet to the center of the alley, and except that, where the rear yard abuts a public street, the minimum rear yard shall be thirty (30) feet or one-half ($\frac{1}{2}$) the height of the highest building, whichever is greater. (Prior code 23-226)

Sec. 16-15-70. Lot coverage.

Not more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-227)

Sec. 16-15-80. Pawnshop or secondhand establishment location restrictions.

(a) No pawnshop or secondhand establishment shall be established, operated or maintained within one thousand five hundred (1,500) feet of any public or private school, including without limitation, preschool, day care center or elementary, secondary or high school; provided, however, that this provision shall not apply to those pawnshops or secondhand facilities established, operated and maintained as of the effective date of this requirement in their present locations and within their present configurations. Said one-thousand-five-hundred-foot distance shall be measured directly and horizontally from the property line of the school and the property line of the pawnshop or secondhand establishment.

(b) Any pawnshop or secondhand establishment shall not be any closer in distance than one thousand five hundred (1,500) feet from any other established, operated or maintained pawnshop or secondhand establishment; provided, however, that this provision shall not apply to those pawnshops or secondhand facilities established, operated and maintained as of the effective date of this requirement in their present locations and within their present configurations. Said one-thousand-five-hundred-foot distance shall be measured directly and horizontally from the property line of the existing pawnshop or secondhand establishment to the property line of the proposed pawnshop or secondhand establishment. (Prior code 23-228)

Sec. 16-15-90. Adult entertainment establishment location restrictions.

(a) No adult entertainment establishment shall be established, operated or maintained within one thousand (1,000) feet of any public or private school, including without limitation, preschool, day care center or elementary, secondary or high school. Said one-thousand-foot distance shall be measured directly and horizontally from the property line of the school and the property line of the adult entertainment establishment.

(b) Any adult entertainment establishment shall not be any closer in distance than one thousand (1,000) feet from any other adult entertainment establishment. Said one-thousand-foot distance shall be measured directly and horizontally from the property line of the existing adult entertainment establishment to the property line of the proposed adult entertainment establishment. (Prior code 23-229)

Sec. 16-15-100. Deferred deposit lender establishment location restrictions.

(a) No deferred deposit lender establishment shall be established, operated or maintained within five hundred (500) feet of any bank, savings and loan association, credit union, church or public or private school, including without limitation, any preschool, day care center or elementary, secondary or high school.

(b) No deferred deposit lender business shall be established, operated or maintained within one thousand (1,000) feet of any existing deferred deposit lender establishment.

(c) For purposes of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the deferred deposit lender establishment is located to the nearest outer property line of the property on which the bank, savings and loan association, credit union, church, school or other deferred deposit lender establishment is located. (Prior code 23-230; Ord. 10-06 §3, 2006)

ARTICLE 16

C-3, Commercial 3 District

Sec. 16-16-10. Permitted uses.

No building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

- (1) Any use permitted in the C-2 District.
- (2) Automobile repair shops for all types of repairs.
- (3) Storage in bulk of, or warehouse for, such items as building materials, construction equipment, oil and petroleum in quantities less than tank-car lots, coal and wood. Storage must be screened from public view.
- (4) Auto wrecking or junk yards, provided that they are screened from public view by solid fence, and provided that said fence is maintained in a good state of repair;
- (5) Manufacture or industrial operations of any kind not heretofore listed and exclusive of industrial operations listed hereafter, where not in excess of five (5) horsepower is employed in the operation of any machine;

(6) Other similar uses which are not more detrimental to the highest and best uses of land in said district than are the uses hereinbefore enumerated, but not including any use permitted in any residential zoned districts. (Prior code 23-236)

Sec. 16-16-20. Height.

No building shall exceed forty (40) feet in height, except for those buildings located on Sheridan Boulevard, which shall not exceed forty-five (45) feet in height. (Prior code 23-237)

Sec. 16-16-30. Area and minimum width of lot.

Area and minimum width of lot requirements shall be as follows: None. (Prior code 23-238)

Sec. 16-16-40. Front yard.

The minimum depth of the front yard for a main building shall be thirty (30) feet or one-half ($\frac{1}{2}$) of the height of the highest building, whichever is greater, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum front yard unless otherwise required by the building code. The minimum depth of the front yard for an accessory building shall be thirty (30) feet. (Prior code 23-239)

Sec. 16-16-50. Side yard.

(a) Except for buildings located on 25th Avenue or Sheridan Boulevard, if the building is thirty-five (35) feet or less in height, no side yard is required, except on a corner lot.

(b) Except for buildings located on 25th Avenue or Sheridan Boulevard, if the building is over thirty-five (35) feet in height, no side yard is required for the first thirty-five (35) feet, or less, in height, and a two-foot side yard shall be required for each ten (10) feet in height above thirty-five (35) feet.

(c) For buildings located on 25th Avenue, on Sheridan Boulevard, and on 20th Avenue from Sheridan Boulevard to Depew Street, no side yard is required unless otherwise required by the building code.

(d) On corner lots, the minimum side yard for main building shall be thirty (30) feet or one-half ($\frac{1}{2}$) the height of the main building, whichever is greater, except that buildings on Sheridan Boulevard, on 25th Avenue, and on 20th Avenue from Sheridan Boulevard to Depew Street shall have no minimum side yard on corner lots unless otherwise required by the building code.

(e) On corner lots, the minimum side yard for accessory buildings shall be thirty (30) feet. (Prior code 23-240)

Sec. 16-16-60. Rear yard.

The minimum depth of the rear yard shall be ten (10) feet, except where the rear abuts a public alley, then the minimum depth shall be fifteen (15) feet to the center of the alley, and except where the rear yard abuts a public street, the minimum rear yard shall be thirty (30) feet or one-half ($\frac{1}{2}$) the height of the highest building whichever is greater. (Prior code 23-241)

Sec. 16-16-70. Lot coverage.

Not more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-242)

Sec. 16-16-80. Pawnshop or secondhand establishment location restrictions.

(a) No pawnshop or secondhand establishment shall be established, operated or maintained within one thousand five hundred (1,500) feet of any public or private school, including without limitation, preschool, day care center or elementary, secondary or high school; provided however, that this provision shall not apply to those pawnshops or secondhand facilities established, operated and maintained as of the effective date of this requirement in their present locations and within their present configurations. Said one-thousand-five-hundred-foot distance shall be measured directly and horizontally from the property line of the school and the property line of the pawnshop or secondhand establishment.

(b) Any pawnshop or secondhand establishment shall not be any closer in distance than one thousand five hundred (1,500) feet from any other established, operated or maintained pawnshop or secondhand establishment; provided, however, that this provision shall not apply to those pawnshops or secondhand facilities established, operated and maintained as of the effective date of this requirement in their present locations and within their present configurations. Said one-thousand-five-hundred-foot distance shall be measured directly and horizontally from the property line of the existing pawnshop or secondhand establishment to the property line of the proposed pawnshop or secondhand establishment. (Prior code 23-243)

Sec. 16-16-90. Adult entertainment establishment location restrictions.

(a) No adult entertainment establishment shall be established, operated or maintained within one thousand (1,000) feet of any public or private school, including without limitation, preschool, day care center or elementary, secondary or high school. Said one-thousand-foot distance shall be measured directly and horizontally from the property line of the school and the property line of the adult entertainment establishment.

(b) Any adult entertainment establishment shall not be any closer in distance than one thousand (1,000) feet from any other adult entertainment establishment. Said one-thousand-foot distance shall be measured directly and horizontally from the property line of the existing adult entertainment establishment to the property line of the proposed adult entertainment establishment. (Prior code 23-244)

Sec. 16-16-100. Deferred deposit lender establishment location restrictions.

(a) No deferred deposit lender establishment shall be established, operated or maintained within five hundred (500) feet of any bank, savings and loan association, credit union, church or public or private school, including without limitation, any preschool, day care center or elementary, secondary or high school.

(b) No deferred deposit lender business shall be established, operated or maintained within one thousand (1,000) feet of any existing deferred deposit lender establishment.

(c) For purposes of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the deferred deposit lender establishment is located to the nearest outer property line of the property on which the bank, savings and loan association, credit union, church, school or other deferred deposit lender establishment is located. (Prior code 23-245; Ord. 10-06 §3, 2006)

ARTICLE 17

I-1, Industrial 1 District

Sec. 16-17-10. Permitted uses.

(a) No building or land shall be used and no building shall hereafter be erected, converted or structurally altered, unless otherwise provided herein, except for one (1) or more of the uses specified herein:

(1) Manufacturing, processing or fabrication of any commodity.

(2) Sale at wholesale, warehousing or storage of any kind of commodity, except live animals, commercial explosives or aboveground bulk storage of flammable liquids or gases.

(3) Sale at retail of hardware, of any commodity, manufactured, processed or fabricated or warehoused only on the premises, or of equipment, supplies and materials (except commercial explosives) for agriculture, mining industry, business, transportation, building and other construction.

(4) Repair, rental and servicing of any commodity the manufacture, processing, fabrication, warehousing or sale of which is permitted.

(5) Other similar uses, including public service facilities, which are not more detrimental to the highest and best uses of the land in said district than are the uses here and before enumerated, but not including any use permitted in any residential zoned districts.

(b) Every use, unless expressly exempted, shall be so separated that the volume of sound inherently and recurrently generated does not exceed seventy (70) decibels at any point of any boundary line of the lot on which the use is located.

(c) Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line or lot on which the use is located.

(d) Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any boundary line of the lot on which the use is located.

(e) All outdoor storage facilities for fuel, raw materials and products stored outdoors shall be enclosed by a fence adequate to conceal such facilities, fuel, raw materials and products from adjacent residential or commercial districts.

(f) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.

(g) All materials or wastes which might cause fumes, the dust of which constitute a fire hazard or which may be edible or might otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers. (Prior code 23-251)

Sec. 16-17-20. Height.

No building shall exceed one hundred (100) feet in height. (Prior code 23-252)

Sec. 16-17-30. Area and minimum width of lot.

Area and minimum width of lot requirements shall be as follows: None. (Prior code 23-253)

Sec. 16-17-40. Front yard.

The minimum depth of the front yard for a main building shall be thirty (30) feet or one-half ($\frac{1}{2}$) of the height of the highest building, whichever is greater. The minimum depth of the front yard for an accessory building shall be thirty (30) feet. (Prior code 23-254)

Sec. 16-17-50. Side yard.

If the building is constructed of masonry or otherwise fireproof materials, and if the building is thirty-five (35) feet or less in height, no side yard is required, except on a corner lot. If a building is constructed of a material other than fireproof material, there shall be a minimum side yard of five (5) feet except on corner lots. If the building is constructed of masonry or otherwise fireproof material, and if the building is over thirty-five (35) feet in height, no side yard is required for the first thirty-five (35) feet, or less, in height, and a two-foot side yard shall be required for each ten (10) feet in height above thirty-five (35) feet. In buildings constructed of a material other than fireproof material, and if the building is over thirty-five (35) feet in height, a five-foot side yard is required for the first thirty-five (35) feet, or less, and a two-foot additional side yard shall be required for each ten (10) feet in height above thirty-five (35) feet. On corner lots, the minimum side yard for the main building shall be thirty (30) feet or one-half ($\frac{1}{2}$) the height of the main building, whichever is greater. On corner lots, the minimum side yard for accessory buildings shall be thirty (30) feet. (Prior code 23-255)

Sec. 16-17-60. Rear yard.

The minimum depth of the rear yard shall be ten (10) feet, except where the rear abuts a public alley, then the minimum depth shall be fifteen (15) feet to the center of the alley, and except where the rear yard abuts a public street, the minimum rear yard shall be thirty (30) feet or one-half ($\frac{1}{2}$) the height of the highest building, whichever is greater. (Prior code 23-256)

Sec. 16-17-70. Lot coverage.

Not more than fifty percent (50%) of the area of a lot shall be covered by the main building and all accessory buildings. (Prior code 23-257)

ARTICLE 18

Nonconforming Uses

Sec. 16-18-10. Intent.

The intent of this Article is to specify the conditions whereby uses of nonconforming buildings, structures, premises, property and land may be continued or altered, and the conditions upon which said uses shall be terminated. (Prior code 23-266)

Sec. 16-18-20. Continuation of nonconforming use.

Uses of a nonconforming building and structure may be continued subject to the following conditions:

(1) Use of a nonconforming building or structure shall not be expanded, altered, enlarged or relocated, except as permitted in Section 16-18-30 below.

(2) Whenever a nonconforming building or structure has been damaged or destroyed, such nonconforming building or structure may be restored to its original condition, provided that restoration or reconstruction work is started within six (6) months and completed within twenty-four (24) months of the event of said damage or destruction.

(3) Nonconforming buildings may be repaired and maintained.

(4) Whenever a nonconforming use of the premises, land or property has been damaged or destroyed, such premises, land or property may be reconstructed or restored, provided that work thereon is started within six (6) months and completed within twenty-four (24) months of the event of such damage or destruction. (Prior code 23-267)

Sec. 16-18-30. Additions.

A nonconforming building or structure shall not be enlarged, altered or expanded unless such is done in compliance with all of the following:

(1) No part of the proposed addition will be higher in elevation than the height of the original building, or in no case exceed the height limitation for the zoning district in which the building is located, whichever is less.

(2) The proposed addition shall not reduce the existing yard width of the nonconforming building if such yard width is equal to or less than the minimum permitted for the applicable zoning district. If the yard width of the nonconforming building exceeds the minimum yard width requirements of the zoning district, then the proposed addition may reduce the yard width to not less than the minimum permitted in said district.

(3) The total square footage of any nonconforming building shall not be increased in an amount greater than fifty percent (50%) more than the total square footage existent when the building became nonconforming.

(4) The total square footage of any accessory residential building, except a garage, shall not be increased in an amount greater than one hundred twenty-five percent (125%) of the total square footage existent when the accessory building became nonconforming.

(5) The floor dimensions of any garage which, for the purposes of this Article, is defined as an accessory building designed for the use or storage of motor vehicles, shall not exceed twenty-six (26) feet by twenty-six (26) feet.

(6) Any such addition or alteration shall be done in compliance with all applicable Code provisions, rules and regulations of the City. (Prior code 23-268)

Sec. 16-18-40. Discontinuation, damage or destruction.

A nonconforming building, premises, land, property or use shall be required to come into conformity with all applicable requirements of this Code if any of the following occur:

(1) The nonconforming building, premises, land, property or use is discontinued.

(2) The nonconforming building, premises, land or property is vacated for a period of one (1) year or more, or the nonconforming use ceases for a period of one (1) year or more.

(3) Except as otherwise specifically permitted by this Code, a nonconforming building, premises, land, property or use is enlarged, altered or expanded.

(4) A nonconforming building, premises, land, property or use is changed to a conforming building, premises, land, property or use.

(5) A nonconforming building, premises, land, property or use is destroyed in any manner, or is damaged in any manner; except that, in the event of damage to the extent of fifty percent (50%) or less of its replacement value, the building, premises, land, property or use may be restored to its original condition, provided that such restoration shall be started within six (6) months and shall be completed within twenty-four (24) months of the event of said damage. This Paragraph shall not apply to any nonconforming building, premises, land or property, which is occupied as a residence, or to any nonconforming use as a residence.

(6) A nonconforming building, premises, land or property which is occupied as a residence, or any nonconforming use as a residence, is destroyed in any manner, or is damaged in any manner; except that, in the event of such damage or destruction, the building, premises, land, property or use may be restored to its original condition, provided that such restoration shall be started within six (6) months and shall be completed within twenty-four (24) months of the event of said damage or destruction. (Prior code 23-269)

ARTICLE 19

Signs

Sec. 16-19-10. Application.

(a) The regulations in this Article shall govern the location, area and type of sign permitted within the City. It shall apply to all new signs and to all existing signs when an existing sign is altered in any way, including but not limited to the size, shape, location, lighting, name, face or wording of the sign.

(b) In addition to the regulations contained in this Article, those properties zoned commercial or residential-commercial shall comply with design standards adopted by the City Council, as may from time to time be amended. Where the design standards conflict with this Article, the design standards shall control. (Prior code 23-281)

Sec. 16-19-20. Safety.

All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended or supported so that they will not be a menace to the safety of persons or property. (Prior code 23-282)

Sec. 16-19-30. Nuisance prohibited.

No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential district because of lighting, glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation. (Prior code 23-283)

Sec. 16-19-40. Revolving beacon sign.

No revolving beacon sign shall be permitted in any district. (Prior code 23-284)

Sec. 16-19-50. Conflict with traffic control devices.

No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic, nor with accepted traffic sight distances. (Prior code 23-285)

Sec. 16-19-60. Ground signs on public property.

Ground signs shall not be located on public property except by specific approval of the City Council. (Prior code 23-286)

Sec. 16-19-70. Temporary signs on public property.

Temporary signs or banners on or over public property may be authorized by the Mayor for a period not to exceed ten (10) days. (Prior code 23-287)

Sec. 16-19-80. Projections over street or public space.

Signs projecting over a street or other public space shall project not more than ten (10) feet and shall be no closer than two (2) feet to a plumb line from the curbline. Clearance below such signs shall be a minimum of fourteen (14) feet. (Prior code 23-288)

Sec. 16-19-90. Projections over alley.

No signs shall project over an alley. (Prior code 23-289)

Sec. 16-19-100. Residential identification signs.

(a) One (1) identification sign shall be permitted per residential use, provided that such sign does not exceed one (1) square foot in area. Said sign may be wall, pedestal, ground or projecting type (but not projecting over public property). One (1) additional property address identification sign shall be permitted per residential use on the alley side of the garage to assist emergency services personnel. Said sign shall not exceed one (1) square foot in area.

(b) One (1) additional sign per residential use may be displayed in connection with a home occupation operated at the residence and for which a valid home occupation business license is in effect. Such sign may not exceed two (2) square feet in area, may be wall, pedestal, ground or projecting type (but not projecting over public property), and shall not contain any neon lighting. Display of a sign relating to a home occupation shall qualify such home occupation as a major home occupation pursuant to Section 6-5-10; therefore, all review requirements of Section 6-5-50 shall apply. (Prior code 23-290)

Sec. 16-19-110. Residential temporary signs.

(a) One (1) sign of a temporary nature relating to the residential use, such as "for sale" or "for rent," shall be permitted per residential use; provided that such sign does not exceed six (6) square feet in area and is not lighted. Such sign may be wall, pedestal or ground type, and shall be removed within three (3) days of completion of the transaction (i.e., the rental or sale of the property).

(b) Political signs may be erected and maintained on private land; provided that each such sign does not exceed six (6) square feet, that such signs shall not be posted more than ninety (90) days prior to the election to which the sign relates, shall be removed within three (3) days following the election to which the sign relates, and shall be limited to wall, window and ground signs.

(c) One (1) sign promoting the business of a contractor holding a valid license under Section 6-4-10 may be displayed by the contractor while actually performing the work for which the contractor is licensed. Each sign displayed by a contractor pursuant to this Section shall not exceed six (6) square feet in area, and such sign shall be removed within three (3) days of completion of the work.

(d) The restrictions on the number of signs provided for in this Section shall not apply to signs of a warning nature posted on a window, fence or door, such as "no trespassing," "no soliciting," "beware of dog" and "premises protected by _____" (Prior code 23-291)

Sec. 16-19-120. Public or semi-public uses.

One (1) identification sign shall be permitted per public or semi-public use; provided that such sign does not exceed ten (10) square feet in area. Said sign may be wall, pedestal, ground or projecting type. (Prior code 23-292)

Sec. 16-19-130. R-C1 and R-C2 Districts.

(a) Regulations are the same as in Section 16-19-120, except that the area of an identification sign will not exceed ten (10) square feet for any building or use.

(b) All signs shall be for the identification of a business or products sold on the premises or services affiliated with the same. (Prior code 23-293)

Sec. 16-19-140. C-1 and C-2 Districts.

(a) In C-1 and C-2 Districts, all signs shall be for the identification of a business or products sold on the premises or services affiliated with the same.

(b) All wall signs shall not be limited in area or number.

(c) Roof or projecting signs shall be limited to a total area of each type of one (1) square foot for each lineal foot of business frontage. No one (1) sign of either type shall exceed fifty (50) square feet in area. No sign shall extend above the highest point of the roof or the existing parapet wall.

(d) Ground signs or any type of freestanding signs shall be of the monument type. Ground signs or any type of freestanding signs shall be limited to a total area of one (1) square foot for each lineal foot of business frontage. No one (1) sign shall exceed fifty (50) square feet in area when located within ten (10) feet or less of any property line; for each addition of ten (10) feet of setback from the closest property line, the sign area may be increased by an additional fifty (50) square feet. No one (1) sign conforming to these requirements shall exceed three hundred (300) square feet in area or eight (8) feet in height. (Prior code 23-294)

Sec. 16-19-150. C-3 and I-1 Districts.

In C-3 and I-1 Districts there shall be no restrictions except the general sign requirements of Sections 16-19-20 through 16-19-90 of this Article. (Prior code 23-295)

Sec. 16-19-160. Special requirements for temporary signs in commercial zone districts.

(a) It is unlawful for the owner, manager or occupant of a business located in a C-1, C-2 or C-3 District to erect, maintain or permit the erection or maintenance of any banner, balloon or other temporary sign or advertising display upon such property without first obtaining a temporary sign permit pursuant to this Section. All temporary signs displayed pursuant to this Section shall only be for the identification of a business, products sold on the premises or services affiliated with the same.

(b) Applications for a temporary sign permit shall be filed with the City Clerk and must contain the following information:

(1) The name of the applicant, name and address of the business and proposed location for and dimensions of the temporary sign;

(2) The color scheme and material of the temporary sign;

(3) A statement, signed by the applicant, assuming responsibility for the maintenance of the temporary sign and assuring its removal upon expiration of the permit or if at any time the sign shall become deteriorated;

(4) A permit fee in the amount of fifty dollars (\$50.00), provided, however, that no such fee shall be required for a sign to be used in connection with a special event that has been permitted in accordance with Article 10 of Chapter 6 of this Code; and

(5) Such other information as determined necessary by the City Clerk for proper review and evaluation of the application.

(c) The City Clerk may deny an applicant a permit under this Section for cause, including but not limited to the following:

(1) The applicant has failed to pay in full the permit fee required by this Section;

(2) The applicant has failed to supply the required information;

(3) The proposed temporary sign is incompatible with the neighborhood, would tend to create visual interference or is not in compliance with any provision of this Code;

(4) The applicant has had a temporary sign permit revoked or suspended, or has had a temporary sign removed by the City due to noncompliance with this Code, within the year immediately preceding the date of application;

(5) The applicant has otherwise failed to meet one (1) or more of the requirements for the permit for which the applicant has applied; or

(6) The applicant has made any false statement or representation on the application for the permit.

(d) If the City Clerk denies a permit, the City Clerk shall notify the applicant in writing, stating the specific grounds for denial. An applicant may appeal the City Clerk's decision to the Board of Adjustment, pursuant to the procedure set forth in Section 16-24-10.

(e) Permits issued pursuant to this Section shall be valid for a maximum period of six (6) months, and may be renewed for successive six-month periods upon submission of a new application.

(f) As used in this Section, temporary signs include banners, pennants, valances, balloons and other temporary advertising displays constructed of cloth, canvas, plastic, fabric or other light material, with or without frames, which are not permanently fixed to the building or other supporting structure. (Prior code 23-296; Ord. 18-10 §2, 2010)

Sec. 16-19-170. Maintenance.

(a) Every sign erected within the City, including those for which no permit is required, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant metals. The Code Enforcement Officer shall inspect and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance. It is unlawful for any owner or person entitled to possession of the property upon which a sign is erected or affixed, the person entitled to possession of a sign or the person listed in a temporary sign permit issued pursuant to this Article, to display or allow to be displayed any sign that is inoperable, unsafe, dilapidated or otherwise in violation of this Code.

(b) If the Code Enforcement Officer finds that any sign is maintained in violation of the provisions of this Article, he or she may give written notice to the owner or person entitled to possession of the sign, the owner of the property where the sign is located or the person listed in any sign permit issued pursuant to this Article, directing that such sign must be altered or removed so as to comply with this Chapter. If such person fails to alter or remove the sign as directed within seven (7) days after receipt of such notice, the Code Enforcement Officer may cause such sign to be altered or removed at the expense of the owner, permittee or person entitled to possession of the sign, and shall, upon the determination of such expenses, certify the same to the City Clerk. The Code Enforcement Officer may also issue a summons and complaint commanding the owner or person entitled to possession of the property upon which the sign is erected or affixed, the person entitled to possession of the sign or the person listed in any permit issued pursuant to this Chapter to appear in the Municipal Court to answer criminal charges that a violation of this Article has occurred.

(c) Upon certification of the amount owed for alteration or removal of a sign pursuant to Subsection (b), the City Clerk shall notify the owner or person entitled to possession of the sign or property, or the permittee, of the total costs incurred for such alteration or removal of the sign, and if that person fails within thirty (30) days after the date of notification to pay the entire costs and expenses of such repair, alteration or removal, then such costs and expenses shall become a lien against and running with the property, and the City Clerk shall certify the same to the County Treasurer for collection in the same manner as general property taxes are collected. The amount certified to the County Treasurer shall include the actual cost of repair or removal of the sign, plus fifteen percent (15%) to defray the City's costs and expenses, plus any charges of the County Treasurer for such collection. (Prior code 23-297)

ARTICLE 20

Fences, Walls and Obstructions

Sec. 16-20-10. View obstructions.

No fence, wall, planter or other structure shall be placed or erected, and no hedge, shrub, tree, plant or other growth or substance of any nature shall be placed, planted or maintained in any location upon any lot as to constitute a traffic hazard because of obstruction of view of any person upon, within or using streets, sidewalks or alleys. (Prior code 23-316)

Sec. 16-20-20. Classification of fences and walls.

(a) Fences and walls are hereby classified as follows:

- (1) Masonry walls.
- (2) Ornamental iron.
- (3) Woven wire.
- (4) Wood picket (more than fifty percent [50%] open).
- (5) Solid fences (wood or metal less than fifty percent [50%] open).
- (6) Hedges of natural plant materials.

(b) The materials permitted for fences and walls shall be limited, subject to the provisions of Section 16-20-50 hereof, to the types set forth in Subsection (a) hereof. (Prior code 23-317)

Sec. 16-20-30. Residential districts.

Fences and walls in residential districts shall conform to the following requirements:

(1) Fences and walls along those property lines of a corner lot adjacent to a street shall be of Class B, C, D or F, and shall not exceed a height of thirty-six (36) inches.

(2) Fences and walls within the front yard, not on a corner lot, shall be of Class B, C, D or F, and shall not exceed a height of forty-two (42) inches.

(3) Fences and walls within the rear and side yards may be of any class, and shall not exceed a height of seventy-two (72) inches; provided however, that where Subsection (1) hereof applies, no fence or wall along a rear lot line may be more than thirty-six (36) inches in height for a distance of not less than twenty (20) feet from the nearest right-of-way of an intersecting street or public right-of-way. (Prior code 23-318)

Sec. 16-20-40. Commercial districts.

Fences and walls in commercial districts shall conform to the following requirements:

(1) No fence or wall shall be erected within a front yard.

(2) Fences and walls along those property lines of a corner lot adjacent to a street shall be of Class B, C, D or F, and shall not exceed a height of thirty-six (36) inches.

(3) Fences and walls within the rear and side yards may be of any class, and shall not exceed a height of seventy-two (72) inches; provided however, that where Paragraph (2) hereof applies, no fence or wall along a rear lot line may be more than thirty-six (36) inches in height for a distance of not less than twenty (20) feet from nearest right-of-way of an intersecting street or public right-of-way. (Prior code 23-319)

Sec. 16-20-50. Fences and fencing materials prohibited.

(a) No barbed wire, sharp-pointed or electrically charged fence shall be erected or maintained anywhere in the City.

(b) No corrugated or sheet metal shall be used as fencing material anywhere in the City.

(c) No used or salvaged material shall be used as fencing material anywhere in the City.

(d) Recycled materials may be used as fencing materials only if:

(1) The recycled material proposed to be used is an allowable type of material under Section 16-20-20;

(2) A sample of the recycled material proposed to be used is submitted to the Building Official;

(3) The recycled material is of similar quality, appearance and durability to new materials of like composition;

(4) The Building Official approves the use of the recycled material; and

(5) The recycled materials used in the fence, as built, conform in quality, appearance and durability to the sample submitted. (Prior code 23-320)

ARTICLE 21

Moving Buildings

Sec. 16-21-10. Permit required.

No building, structure or improvement shall be moved or set from or upon land located in any zoned area of the City or transported upon any public highway in the City until and unless a building permit to move and set and a transport permit have been obtained therefor and said building, structure or improvement complies with the provisions of this Article; provided, however, that, for the sole purpose of transporting said buildings, structures or improvements through the City, and having no point of origin or destination within the City, a valid transport permit issued by the County shall be sufficient. (Prior code 23-331)

Sec. 16-21-20. Building code compliance.

Except as provided in Section 16-21-10, all buildings, structures, and improvements shall comply with the building code of the City. (Prior code 23-332)

Sec. 16-21-30. Permit application.

Any person who wishes to obtain a building permit to move and set in compliance herewith shall file an application for such permit with the Building Inspector, requesting an inspection of the building structure or improvement to be moved and set. (Prior code 23-333)

Sec. 16-21-40. Additional plans required.

The applicant shall submit with his or her application for the building permit a plat plan, footing and foundation plan and construction plans for any new construction, which plans shall comply with the building code. (Prior code 23-334)

Sec. 16-21-50. Tax payment required.

If the building, structure or improvement is located in the City, all outstanding property taxes shall be paid and the applicant shall submit with his or her application a statement from the County Treasurer showing that all past and current taxes have been paid before any permit shall be issued. (Prior code 23-335)

Sec. 16-21-60. Inspection; transport permit.

Upon receipt of the items specified in Sections 16-21-40 and 16-21-50, the Building Inspector shall inspect said building, structure or improvement and the proposed location where the same will be set within the City, and upon determining that the proposed development complies with the building code and this Chapter, the Building Inspector shall issue the building permit to move and set, and the City Engineer shall issue a transport permit, provided that said building complies with this Chapter. The City Engineer shall designate the route to be traveled. The transport permit is good only for the date specified on permits, except Saturdays, Sundays or holidays. The transport permit will not be issued if ninety (90) days or more has lapsed since the date of inspection by the Building Inspector. (Prior code 23-336)

Sec. 16-21-70. Building permit fee.

(a) There will be a building permit fee of twenty-five dollars (\$25.00) to cover cost of investigation and inspection for determining the structural soundness of buildings, structures or improvements to be moved, which fee is payable in advance and must accompany the application provided for in this Article. The inspection shall determine what will be necessary to bring buildings, structures or improvements in compliance with the building code should the building not so comply. This fee is not returnable.

(b) If buildings, structures or improvements are found to be capable of complying with the building code, a building permit will be issued at the regular fees as determined by the valuation of said building, structure or improvement as published in the building code. This fee is in addition to the twenty-five dollar (\$25.00) fee designated in this Section. (Prior code 23-337)

Sec. 16-21-80. Transport permit not in lieu of building permits.

The transport permit provided for in this Article shall not be in lieu of any building permits which may be required by the City. (Prior code 23-338)

Sec. 16-21-90. Additional permits required.

No transport or building permit to move and set shall be issued until the applicant has first obtained the necessary permits from the telephone company, public utilities companies, railroad companies, the Colorado Department of Transportation and the County road supervisor, unless it can be shown by the applicant that these agencies are not interested in the manner. (Prior code 23-339)

Sec. 16-21-100. Size restricted.

No transport or building permit to move and set shall be issued for any building, structure or improvements exceeding twenty-four (24) feet in width, twenty (20) feet maximum loaded height or in excess of thirty (30) feet in length. (Prior code 23-340)

Sec. 16-21-110. Indemnity bond.

No person shall transport, move or set any building, structure or improvement in the City until and unless such person shall post with the Building Inspector a good and sufficient indemnity bond in the amount of five thousand dollars (\$5,000.00) in favor of the City. Such bond shall be made by a surety corporation authorized to do business in the State. (Prior code 23-341)

ARTICLE 22

Special Regulations

Sec. 16-22-10. Minimum lot area and minimum lot width.

Where an individual lot was held in separate ownership from adjoining properties or was platted and recorded at the time of passage of the ordinance codified herein and has less area or less width than required in other sections of this Chapter, such lot may be occupied according to the permitted uses provided for the district in which such lot is located; provided that no such lot shall be less than five thousand (5,000) square feet in area or less than fifty (50) feet in width. (Prior code 23-351)

Sec. 16-22-20. Area or width from another building.

No part of an area or width required for a lot for the purpose of complying with the provisions of this Chapter shall be included as an area or width required for another building. (Prior code 23-352)

Sec. 16-22-30. Front lot line.

No lot shall have a front line or street frontage of less than fifty (50) feet. (Prior code 23-353)

Sec. 16-22-40. Maximum height of exemptions.

The height limitations of this Chapter shall not apply to church spires, belfries, cupolas, penthouses, chimneys, ventilators, skylights, water tanks, parapet walls, cornices without windows, antennas or necessary mechanical appurtenances usually carried above the roof level. (Prior code 23-354)

Sec. 16-22-50. Minimum height of buildings.

No dwelling shall be constructed with the side wall height of less than eight (8) feet. (Prior code 23-355)

Sec. 16-22-60. Yards from other buildings.

No part of a yard acquired for any building for the purpose of complying with the provisions of this Chapter shall be included as a yard for another building, and all yards shall be open and unobstructed except as otherwise provided herein. (Prior code 23-356)

Sec. 16-22-70. Extensions into required yard.

Cornices, canopies, eaves or similar architectural features may extend into a required yard not more than two (2) feet. (Prior code 23-357)

Sec. 16-22-80. Side yard along street side of reversed corner lot.

The side yard along the street side of a reversed corner lot shall be not less than the required front yard for principal buildings along such a side street. (Prior code 23-358)

Sec. 16-22-90. Paving or graveling required for parking.

(a) All off-street parking lots or areas shall be paved or graveled according to specifications therefor, which shall be established from time to time by resolution of the City Council. No vehicle shall be parked in any such lot or area unless it meets such specifications.

(b) As used in this Section, *vehicle* means any vehicle defined as a *motor vehicle* in the Model Traffic Code as adopted or amended from time to time by the City and, in addition, means any wheeled trailer without motive power which is designed to be drawn by such a motor vehicle. (Prior code 23-306)

ARTICLE 23

Flood Hazard Area Regulations

Sec. 16-23-10. Findings, purposes and interpretation.

(a) The City Council finds that there are within the City numerous flood hazard areas which are subject to periodic inundation resulting in potential loss of life and property, danger to health and safety, disruption of commerce and government services, extraordinary public expenditure for flood

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

(b) The City Council finds that the drainageways and flood hazard areas of the City that are presently delineable are as shown on the flood hazard area map, copies of which are on file in the office of the City Clerk and City Engineer, and which is incorporated in this Article by this reference as the zone district map of the City.

(c) It is the purpose of this Article to promote the public health, safety and welfare and to reduce the flood hazards described above. To this end, it is the intent of the City Council to:

(1) Reduce the hazard of flood to life and property through:

- a. Prohibiting certain uses which are dangerous to life or property in time of flood;
- b. Restricting uses which would be hazardous to the public health in time of flood;
- c. Restricting uses which are particularly susceptible to flood damage, so as to alleviate hardship and reduce demands for public expenditures for relief and protection; and
- d. Requiring permitted floodplain uses, including public facilities which serve such uses, to be protected against floods by providing floodproofing and general flood protection at the time of initial construction.

(2) Protect floodplain occupants from a flood which is or may be caused by their own, or other, land use and which is or may be undertaken without full realization of the danger, through:

- a. Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures;
- b. Regulating the method of construction of water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions; and
- c. Delineating and describing areas that could be inundated by floods so as to protect individuals from purchasing floodplain lands for purposes which are not in fact suitable.

(3) Protect the public from the burden of extraordinary financial expenditures for flood control and relief, by regulating all uses within the floodplain district so as to produce a method of construction and a pattern of development which will minimize the probability of damage to property and loss of life or injury to the inhabitants of the flood hazard areas.

(4) Protect the storage capacity of floodplains and assure retention of sufficient floodway area to convey flood flows which can reasonably be expected to occur by:

- a. Regulating, filling, dumping, dredging and alteration of channels by deepening, widening or relocating;
- b. Prohibiting unnecessary encroachments; and

c. Encouraging uses such as open space, parks, recreation and parking;

(5) Protect the hydraulic characteristics of the small watercourses, including the gulches, sloughs and artificial water channels used for conveying floodwaters, which make up a portion of the urban major drainage system, by:

a. Regulating, filling, dumping and channelization so as to maintain natural storage capacity and slow flow characteristics; and

b. Prohibiting encroachment into the watercourses.

(d) The provisions of this Article are intended to be in addition to the other terms of the this Chapter. Nothing contained in this Article is intended to authorize the use of land or buildings in any zone district of the City except in compliance with all other provisions of this Chapter, and establishment of flood hazards areas is not intended to alter the boundaries of any zone district or to remove land or buildings in flood hazard areas from the zone districts in which such land or buildings are located. (Prior code 23-391)

Sec. 16-23-20. Territorial jurisdiction.

The jurisdiction of this Article includes all lands adjacent to and within any watercourse within the City that would be inundated by the one-hundred-year-frequency flood as defined in Section 16-23-60 below. (Prior code 23-392)

Sec. 16-23-30. Provisions deemed minimum requirements.

In their interpretation and application, the provisions of this Article shall be held to be minimum requirements, shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers of the City granted by state law. (Prior code 23-393)

Sec. 16-23-40. Disclaimer of liability.

The degree of flood protection intended to be provided by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on occasions or the flood heights may be increased by manmade or natural causes. This Article does not imply that areas outside floodplain zoning district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages. Nor shall this Article create a liability on the part of or a cause of action against the City or any officer or employee thereof for any flood damages that may result from reliance on this Article. (Prior code 23-394)

Sec. 16-23-50. Adoption of official map.

The location, boundaries and flood profile of the flood areas established by this Article are shown upon the flood hazard area map of the City, which is incorporated into this Article. Said zoning map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Article as if fully set forth and described in this Article. Each change in the official map shall be subject to the amendment procedure as required in this Article. For the purposes of final determination of the floodplain limits, the flood profile shall control. (Prior code 23-395)

Sec. 16-23-60. Definitions.

The following definitions shall apply to terms used in this Article:

Channel means that portion of a watercourse with a perceptibly defined bed and banks which confines and continuously or sporadically conducts a flow of water. *Channel flow* is that water which is flowing within the limits of the defined channel.

City Engineer means the person responsible for administration and enforcement of this Article, who is also designated as the Zoning Administrator.

Development means any manmade change to real estate or property, including but not limited to buildings or structures, mining, dredging, filling, cutting, grading, paving, excavation or drilling.

Drainway means a natural or artificial land depression with or without perceptible bed and banks, to which surface runoff gravitates to form a continuous or intermittent flow of water in a definite direction.

Encroachment lines are limits of obstruction to flood flows. These lines are generally parallel to the stream. The lines are established by assuming that the area beyond the encroachment lines may ultimately be developed in such a way that it will not be available to convey flood flows. An equal degree of encroachment is established by considering the effect of encroachments on the hydraulic efficiency of the floodplain along either side thereof, and of a significant width of the stream.

Fill means a deposit of materials of any kind by other than natural means.

Flood means water from a river, stream, watercourse, lake or other body of standing water which temporarily overflows or inundates adjacent lands and which may affect other lands and activities through stage elevation, backwater and/or increased groundwater level.

Flood hazard area means an area which would be inundated by water during a one-hundred-year-frequency flood under conditions of complete development of the City and surrounding areas, according to acceptable engineering studies, determinations and standards, and/or the Master Plans of the City and such surrounding areas.

Flood hazard area map means the map incorporated by Section 16-23-50 delineating drainageways and flood hazard areas of the City.

Flood Insurance Rate Map means the map on which the Federal Insurance Administration has designated areas of special flood hazards and the risk premium zones applicable to the City, including any amendments thereto.

Flood insurance study means the report of the Federal Insurance Administration, including flood profiles, the flood boundary floodway map and the water surface elevations of a one-hundred-year-frequency flood and used as one (1) basis for preparation of the flood hazard area map.

Flood profile means a graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream, river, watercourse, drainway or channel.

Floodproof means constructed so as to be able to withstand the flood depths, pressures, water velocities, impact and uplift forces associated with a one-hundred-year-frequency flood.

Floodproofing means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Flow line means a line on the flood hazard area map delineating a watercourse for which encroachment lines have not been established or determined.

High hazard area means that portion of a flood hazard area in which water flows at a velocity exceeding three (3) feet per second or the water surface profile would not be increased more than one-half (½) foot if there is an equal degree of encroachment extending for a length of three hundred (300) feet on each side of the watercourse. The limits of the encroachment are defined by encroachment lines. For the purpose of delineating the line between high hazard areas and low hazard areas, reference is made to the engineering study commissioned by the Urban Drainage District entitled "Flood Hazard Area Delineation, Sloan's Lake Basin." Copies of the study are on file in the offices of the City Engineer and the City Clerk, and are incorporated into this Article. Particular reference to the definition, description and use of the term *floodway* within the study shall be made for the purpose of delineation of the high and low hazard area lines in the City. Particular reference shall also be made to Table C-1 within the Sloan's Lake Basin study for delineation of the high hazard and low hazard area lines.

Low hazard area means the portion of a flood hazard area which is not within a high hazard area.

Lowest floor means the lowest floor, including the basement of a structure.

Mobile home means a habitable structure which is transportable in one (1) or more sections, built on a permanent chassis and which is designed for use with or without a permanent foundation when connected to appropriate utilities.

New construction means structures for which a building permit is issued after the effective date of the ordinance codified herein.

Obstruction means any dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure, plantings or matter in, along, across or projecting into any drainway, channel or watercourse, which might impede, retard or change the direction of a flow of water, either by itself or by catching or collecting debris carried by such water, or which is placed where a one-hundred-year-frequency flood flow might carry the debris downstream to the danger and injury of life and property.

One-hundred-year-frequency flood means a flood of such magnitude that flows of equal or greater magnitude may reasonably be expected to occur once every one hundred (100) years or of which there is a one-percent probability of occurrence in any given year.

Regulatory flood protection elevation means an elevation one (1) foot above the water surface elevation which would occur in a one-hundred-year-frequency flood.

Structure means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to fences, walls, buildings, dams, earthworks including excavations, but not including, by way of illustration only, utility systems, cables, poles, lines, pavements, walks, driveways or other such construction which has no practical adverse effect upon the flow of water.

Substantial improvement means any development of a structure, the cost of which equals or exceeds either fifty percent (50%) of the market value of the structure before the development is started or, if the development is undertaken for repair of damage caused by accident or acts of nature, fifty percent (50%) of the market value of the structure before the damage occurred. Determination of the market value shall be made by reference to comparative real estate sales and construction costs prevailing in the Denver metropolitan area.

Watercourse means a river, creek, gulch, stream or similar conduit, or a tributary of such a conduit, with or without perceptible bed or banks, in which flows of water occur on either a sporadic or continuous basis, including major drainageways for carrying urban storm runoff.

Zoning Administrator. See *City Engineer.* (Prior code 23-396)

Sec. 16-23-70. Amendments to flood hazard area map.

(a) The City Council may amend by motion the flood hazard area map from time to time as may be necessary or appropriate to reflect changes of circumstances or new or additional information submitted to the City Council, and in general compliance with the provisions of Sections 16-25-10 through 16-25-70, except as provided in this Article. Such amendments shall become effective upon the filing thereof in the offices of the City Clerk and the City Engineer. Amendments to the flood hazard area map shall be based on such information as the City Engineer deems suitable in his or her professional judgment, and as presented to the City Council.

(b) Any person requesting changes or who is contesting changes to the flood hazard area map shall be given a reasonable opportunity to present his or her case to the City Council and to submit his or her own technical evidence if he or she so desires. The City Council shall not allow deviations from the boundary lines as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect. (Prior code 23-397)

Sec. 16-23-80. Prohibited uses generally.

Notwithstanding any other provisions hereof, no new development within a flood hazard area shall be allowed, nor shall any building or conditional use permit be issued for any use which would:

(1) Cause any obstruction which would adversely and substantially affect the efficiency or capacity of any drainway or watercourse;

(2) Cause an increase of more than one-half ($\frac{1}{2}$) of a foot in the flood profile elevation in any flood hazard area;

(3) Result in storage or processing of flammable, explosive or otherwise potentially injurious materials to human, animal or plant life and/or property within a flood hazard area, except that this storage prohibition shall not apply to small items or materials usually used for domestic or household purposes; or

(4) Result in the construction within a flood hazard area of any structure except those structures which are:

a. Designed to prevent flotation, collapse or lateral movement;

b. Which employ materials and utility equipment resistant to flood damage; and

c. Which employ methods of construction which reduce the danger of flood damage.
(Prior code 23-398)

Sec. 16-23-90. Nonresidential structure uses.

Nonresidential structures which require floodproofing must conform to the following minimum floodproofing measures verified by a plan or document certified by a registered professional engineer:

(1) Anchorage to resist flotation and lateral movement.

(2) Installation of watertight doors, bulkheads and shutters in the portion of the structure below the regulatory flood protection elevation.

(3) Reinforcement of walls to resist water pressures.

(4) Use of paints, membranes or mortars to reduce seepage of water through those portions of the walls below the regulatory flood protection elevation.

(5) Addition of mass or weight to structures to resist flotation.

(6) Installation of pumps to lower water levels in structures.

(7) Construction of water supply and waste collection and treatment systems to prevent the entrance of floodwaters.

(8) Pumping facilities for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.

(9) Construction to resist rupture or collapse caused by water pressure or floating debris.

(10) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

(11) Measures that must be taken which, based upon acceptable engineering standards, ensure that the construction does not cause the one-hundred-year-frequency flood to become more damaging. (Prior code 23-399)

Sec. 16-23-100. Permitted uses generally.

No person shall use land in a flood hazard area except for the following:

(1) Uses for which conditional use permits are not required:

a. Farming, outdoor plant nurseries, wild crop harvesting, but not including the planting and growing of nursery stock, whether temporary or permanent in rows, clumps, clusters or in any manner that will restrict the passage of water as set forth in Section 16-23-80;

b. Private and public recreation uses which do not require structures;

c. Open area uses within residential districts, such as, by way of illustration only, open space, parks and gardens, which do not require structures or plants that will restrict the passage of water as provided in Section 16-23-80;

d. Railroads, streets, bridges, utility lines and facilities, flood control and drainage structures; provided that such uses are designed to cause minimal increases in flood elevation and that such facilities whose failure or interruption would disrupt or endanger the public health, safety or welfare are protected to the regulatory flood protection elevation; and provided further that the use has first been approved in writing by the City Engineer;

e. Water distribution and sewage collection facilities and ancillary facilities, including wells and septic tanks; provided that such facilities are designed to employ the best available technology to minimize or prevent infiltration of the facility by floodwaters; and provided further that the use has first been approved in writing by the City Engineer; and

f. Water and sewage treatment facilities and solid waste disposal facilities; provided that such facilities are designed to employ the best available technology to minimize or eliminate infiltration of the facility by floodwaters and infiltration of floodwaters by discharge from the facility; provided further that, in the case of new construction, addition to or modification of existing facilities, emergency plans for action in time of flood, including measures to prevent introduction of any pollutant or toxic material into floodwaters, have been prepared, filed with and approved by any local, state and federal agencies with jurisdiction over such facilities; and provided further that the proposed facility has first been approved in writing by the City Engineer.

(2) Any of the following uses, provided that a conditional use permit has first been obtained pursuant to Section 16-23-160 of this Article:

a. Extraction of sand, gravel and other similar materials;

b. Circuses, carnivals and similar transient amusement activities;

c. Roadside stands and signs;

d. Storage yards for machinery or materials;

e. Parking lots accessory to permitted uses, provided that a warning of potential flood hazard is posted at all times in any parking lot in which flood depths over one-half (1/2) foot or flood velocities exceeding three (3) feet per second would occur in a one-hundred-year-frequency flood;

f. The structural addition or enlargement of any nonconforming structure subject to provisions of Section 16-23-80 of this Article, and subject to the following:

1. No such use shall be expanded or enlarged into the flood hazard area except in conformity with the provisions of this Article;

2. Such structures shall be located in relationship to existing structures so as to have no effect upon or obstruction of the flow of water pursuant to its actual or projected route of flow;

3. If such nonconforming use is discontinued as provided in Article 18, any future use of the building and premises shall conform to this Article;

4. Any uses or adjuncts thereof which are nuisances as prescribed by City or state law shall not be permitted to continue as nonconforming uses; and

5. Any alteration or repair to any nonconforming nonresidential structure shall be protected by floodproofing measures as contained in this Article.

(3) Any of the following, provided that a conditional use permit has first been obtained pursuant to Section 16-23-150, and provided further that the use is located in a low hazard area:

a. Dwellings or any substantial improvements or additions thereto, provided that the lowest floor is located at or above the regulatory flood protection elevation;

b. Commercial, manufacturing, industrial, detached buildings accessory to residential buildings, and other similar structures or any substantial improvements or additions thereto, provided that:

1. The lowest floor is located at an elevation equal to or above the regulatory flood protection elevation, or

2. The structure is floodproofed to an elevation equal to or above the regulatory flood protection elevation and special circumstances exist which, in the opinion of the Zoning Administrator, make compliance with Subparagraph b.1. above impractical;

c. Alteration, addition or repairs to an existing structure that changes its structural integrity, but is less in extent than substantial improvement, shall be protected, where possible, by floodproofing measures;

d. Earthfills or deposits of soil materials may be permitted, provided that such fills or deposits are adequately protected against erosion by the use of riprap, vegetative cover or other suitable means; or

e. Other uses similar in nature to permitted uses may be allowed, provided that they are consistent with the provisions of this regulation. (Prior code 23-400)

Sec. 16-23-110. Prohibited uses in high hazard area.

The following uses are specifically prohibited in the high hazard area:

(1) The storage or processing of materials that in time of flooding are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life and/or property; however, these storage prohibitions shall not apply to small items or materials usually used for domestic and household purposes, if applicable.

(2) The dumping, storage or disposal of garbage or other solid waste materials, except such small items necessarily related to domestic and household uses, if applicable.

(3) Buildings and structures for human occupancy, being either fixed or mobile.

(4) Storage or processing of solid debris that is capable of being carried downstream by floodwaters.

(5) Any obstruction which will cause any rise in the one-hundred-year water surface elevation of not more than one-half (1/2) foot or will adversely affect the efficiency of or restrict the flow or capacity of a designated floodplain so as to cause foreseeable damage to others, wherever located, as determined by the City Engineer. (Prior code 23-401)

Sec. 16-23-120. Hardship; repair of structures.

In circumstances of undue hardship to the property owner, such as the substantial destruction of a structure, upon presentation to the City Council of such significant and undue hardship, the property owner may be granted the right to repair the structure in compliance with the provisions of this Article. The City Council shall determine what constitutes significant and undue hardship within the context of the purpose and intent of this Article. Such determination shall be final. (Prior code 23-402)

Sec. 16-23-130. Building permits and certificates of occupancy.

(a) The Zoning Administrator may withhold issuance of a building permit whenever he or she is aware that the proposed construction would result in violation of provisions of this Article and applicable local and state laws and/or regulations, other City ordinances and/or regulations, or federal laws and/or regulations. The Zoning Administrator shall permit local, state and federal enforcement officials to examine his or her records at mutually convenient times. The Zoning Administrator may suspend or revoke any building permit or certificate of occupancy whenever such officials provide him or her with information which establishes probable cause that the construction or use would violate any provisions of this Article and local, state or federal laws or regulations. A building permit

or certificate of occupancy which is suspended under this Article shall not be reinstated or reissued until the Zoning Administrator is reasonably satisfied that no violation exists or will exist.

(b) The Zoning Administrator shall, from time to time, notify the Colorado Water Conservation Board, the Federal Insurance Administration and any affected adjacent communities of alterations or relocations of any watercourse which result from permitted development when, in the opinion of the Zoning Administrator, the alterations or relocations are substantial. The Zoning Administrator may withhold issuance of any building permit or certificate of occupancy whenever he or she deems it in the public interest to consult with other local, state or federal officials prior to issuance of such permit or certificate. (Prior code 23-403)

Sec. 16-23-140. Certified elevations.

Prior to the issuance of a certificate of occupancy for any conditional use permitted by the Board of Adjustment, a land surveyor registered in the State or an engineer registered in the State shall certify to the Zoning Administrator the elevation of the lowest floor of the structure and/or the elevation of other floodproofing, if such floodproofing is a condition of the permit. The elevation shall be accurate to one-tenth ($\frac{1}{10}$) foot and shall be based upon mean sea level datum bench marks established by the City. (Prior code 23-404)

Sec. 16-23-150. Appeals.

Appeals of any decision or interpretation of this Article shall follow the procedure in Article 24. The Zoning Administrator may appeal a decision of the Board of Adjustment to the City Council for final determination upon the allegation that the Board of Adjustment has failed to adhere to the intent, objectives, purposes, or provisions of this Article. The burden of proof shall be on the Zoning Administrator. (Prior code 23-405)

Sec. 16-23-160. Conditional use permits; approval and conditions.

(a) The Zoning Administrator shall issue a conditional use permit for any use for which said permit is required only upon approval of the permit by the Board of Adjustment.

(b) The applicant for a conditional use permit shall have the burden of proving all facts and conditions precedent to issuance of such a permit.

(c) The Board of Adjustment shall, as a continuing condition of any permitted use, require that safeguards such as floodproofing, reasonable drainway improvements and dedication of rights-of-way or easements, if the latter requirement of said dedications is applicable, be effected to reduce flood hazards.

(d) No conditional use permit or variance from the use regulations of this Section shall be approved in violation of the provisions of Sections 16-23-80 through 16-23-120.

(e) An application for a conditional use permit under this Article shall be accompanied by a land use application fee in the amount of four hundred thirty dollars (\$430.00) and by a development review cash deposit in the amount of one thousand five hundred dollars (\$1,500.00). (Prior code 23-406; Ord. 15-10 §5, 2010)

Sec. 16-23-170. Factors to be considered for conditional use permits.

The Board of Adjustment shall not approve any conditional use permit or reverse or alter any decision of the Zoning Administrator relating to the use of specific property in a flood hazard area unless and until it has taken evidence of and considered the following:

- (1) The probability that materials would be swept onto other properties to the injury of persons or property in time of flood.
- (2) The susceptibility of the proposed use to flood damage.
- (3) The importance of the proposed use to the community.
- (4) The availability of safer and practical alternative locations for the proposed use.
- (5) The compatibility of the proposed use with the Master Plan and any applicable floodplain management program.
- (6) The access to the property in time of flood for ordinary and emergency vehicles.
- (7) The height, velocity, duration, rate of rise and debris transport capability of the floodwaters which would occur at the site in times of flood.
- (8) The cost of providing governmental services to the property during and after a flood, including maintenance and the repair of public utilities and facilities such as sanitary sewer, gas, electrical and water utilities, and streets and bridges.
- (9) Any other relevant evidence submitted by the Zoning Administrator, the person requesting a permit, any appellant or other party at interest.
- (10) The determination of the Board of Adjustment shall be based on the effects of the proposed project with respect to the objectives and purpose of this Chapter as stated herein. (Prior code 23-407)

Sec. 16-23-180. Duties of Zoning Administrator.

In addition to those duties stated in Article 2, the Zoning Administrator shall:

- (1) Review, investigate and report to the Board of Adjustment on any application for a conditional use permit in a flood hazard area, or any appeal taken under this Article to the Board of Adjustment.
- (2) Maintain records of the elevation of all new construction above the regulatory flood protection elevation, including any required certification by developers, surveyors, engineers or architects that new construction conforms to the requirements of this Article and other applicable local, state and federal laws. (Prior code 23-408)

ARTICLE 24

Board of Adjustment

Sec. 16-24-10. Appeal and application procedures.

The Board of Adjustment shall hold a public hearing on all applications for variances and appeals, subject to the following:

(1) Appeals to the Board of Adjustment may be taken by any person aggrieved by the inability to obtain a building permit, or by the decision of any administrative office or agency based upon or made in the course of the administration or enforcement of the provisions of this Chapter. Appeals may be taken by any officer, department, board or bureau of the City affected by the granting or refusal of a building permit or other decision of an administrative officer or agency based on or made in the course of the administration or reenforcement of the provisions of this Chapter.

(2) Appeals and applications shall be in writing on forms provided by the City.

(3) Appeals to the Board of Adjustment shall be filed within sixty (60) days from the date of the order, requirement, decision or determination being appealed. The Board of Adjustment shall not have jurisdiction to hear any appeal not filed within sixty (60) days from the date of such order, requirement, decision or determination.

(4) Any application submitted pursuant to this Section shall be accompanied by a land use application fee in the amount of two hundred dollars (\$200.00) for residential development or in the amount of four hundred dollars (\$400.00) for nonresidential development. Additionally, each such application shall be accompanied by a development review cash deposit in the amount of five hundred dollars (\$500.00) for residential and one thousand dollars (\$1,000.00) for nonresidential.

(5) All appeals and applications shall be heard not later than sixty (60) days from the filing of the application.

(6) Three (3) members of the Board of Adjustment shall constitute a quorum for the transaction of any business, and at least three (3) affirmative votes shall be necessary to reverse any order, requirement or decision of any administrative official, or to grant any variance. (Prior code 23-423; Ord. 14-05 §1, 2005; Ord. 12-08 §1, 2008; Ord. 07-09 §3, 2009; Ord. 15-10 §6, 2010)

Sec. 16-24-20. Notice of all hearings before the Board of Adjustment.

Notice of such hearing shall be published in a newspaper of general circulation within the City at least ten (10) days before the date of the hearing. The notice of publication shall contain the applicant's name, address and description of the property, nature of the request and date, time and place of such hearing. (Prior code 23-424)

Sec. 16-24-30. Variance posting.

Applicants for variances shall be responsible for posting in a conspicuous place upon the property a notice of the request for variance for a period of not less than ten (10) consecutive days prior to the hearing. The notice shall be provided by the Board of Adjustment. (Prior code 23-425)

Sec. 16-24-40. City Council appeal.

A party to an appeal before the Board of Adjustment may appeal the decision of the same to City Council subject to the following:

- (1) Appeals shall be in writing on forms provided by the City Clerk.
- (2) Appeals to the City Council shall be filed within ten (10) days from the date of the Board of Adjustment's decision. The City Council shall not have jurisdiction to hear any appeal not filed within the time limit stated herein.
- (3) A fee of fifteen dollars (\$15.00) shall be paid for all appeals, such fee to be paid in full to the City Clerk at the time of filing an appeal.
- (4) All appeals shall be decided by the City Council not later than thirty (30) days from the filing of the appeal.
- (5) City Council shall notify the appellant in writing within fifteen (15) days of its decision. (Prior code 23-426)

Sec. 16-24-50. City Council review.

The City Council's review of the Board of Adjustment's decision shall be limited to a determination as to whether, from the evidence presented at the hearing before the Board of Adjustment, the decision of the same was in excess of its jurisdiction or was arbitrary and capricious. For purposes of this Section, a decision of the Board of Adjustment is not "arbitrary and capricious" if it is supported by any competent evidence in the record of the proceedings of the Board of Adjustment. For purposes of this Section, "competent evidence" means enough evidence in support of the decision made to make the issue decided fairly debatable among reasonable people. (Prior code 23-427; Ord. 05-11 §1, 2011)

Sec. 16-24-60. Variances.

(a) Variances from the requirements of this Chapter may be granted by the Board of Adjustment when the circumstances and conditions of a property are exceptional or extraordinary such that they do not apply to property generally within the City and such that denial of an application for relief from the requirements of this Chapter would result in an inability to reasonably utilize the property. In reviewing applications for variances under this Section, the burden shall be upon the applicant to meet the criteria set forth herein.

(b) The Board of Adjustment shall not approve a variance from the requirements of this Chapter unless all of the following criteria are met:

(1) The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;

(2) The extraordinary or exceptional physical condition of the property will not allow reasonable use of the property in its current zone in the absence of relief;

(3) The granting of the variance will not have an adverse impact on the surrounding properties, the neighborhood or the community as a whole;

(4) The granting of the variance will not be detrimental to public health, safety and welfare or injurious to surrounding property values and neighborhood character;

(5) The granting of the variance shall not be substantially inconsistent with any plans adopted by the City;

(6) The granting of the variance shall not materially weaken the general purpose of this Chapter 16 or any other zoning regulations of the City;

(7) The variance, if granted, shall only be to the extent necessary to afford a reasonable use of the property; and

(8) The unique conditions of the property under which the variance is sought were not created by the owner of the property or his or her agent.

(d) Conditions may be imposed upon any variance approval in order to alleviate or mitigate potential adverse impacts. Conditions must relate to the property and may relate to specific persons or organizations which have a direct association with the use of the property as contemplated by the requested variance. Every variance authorized hereunder shall be transferable and shall run with the land unless expired pursuant to Subsection (e) below.

(e) A variance granted pursuant to this Section shall expire within two (2) years from the date of final approval if action has not been taken within said time. This time may be extended with the approval of the Board of Adjustment if the petitioner can show good cause. For purposes of this Subsection, *action* means obtaining a building permit or other applicable City permit/license pursuant to the granting of the variance, or if a permit or license is not required, the right that is granted pursuant to the variance is put to use.

(f) When an application for a variance from the terms of this Chapter has been denied by the Board of Adjustment, no application for the same or substantially the same variance may be filed with the Board of Adjustment for a period of one (1) year after the date the Board of Adjustment's decision denying the previous variance application becomes final. (Prior code 23-428; Ord. 07-09 §4; 2009)

ARTICLE 25

Amendments or Changes

Sec. 16-25-10. Amendments.

(a) The City Council may, from time to time, rezone any property on its own action or on petition, after public notice and hearings as are provided in Sections 16-25-40 through 16-25-80 below. An SDP application shall be submitted whenever a petition for rezoning is filed. The SDP application and rezoning petition shall each be subject to its respective review process and criteria. The City Council may, in its sole discretion, combine the public hearings to be held before it on a rezoning petition and on an SDP application concerning the same property.

(b) Whenever development plans of any area are submitted to the City Council as the basis for requesting any rezoning and the City Council grants the request, the City Council shall have the power to enforce development of said area in accordance with said plans and exclude development of any other uses that may otherwise be permitted in said area as a result of said zoning.

(c) This City Council may, from time to time, amend, supplement, change modify or repeal any other provision of this Chapter in the same manner as provided for any other ordinance; provided, however, that prior to any such amendment, supplementation, change, modification or repeal, the Planning Commission shall hold a hearing on the matter and shall make a recommendation in writing to the City Council concerning the matter. (Prior code 23-441; Ord. 07-09 §5; Ord. 21-09 §3, 2009)

Sec. 16-25-20. Petitions.

Whenever the owners of fifty percent (50%) or more of the area of the property in any district which is to be affected, present a petition duly signed and acknowledged to the City Council proposing a rezoning of such property, it shall be the duty of the City Council to vote upon such petition in compliance with the procedures established in Sections 16-25-40 through 16-25-80. (Prior code 23-442; Ord. 12-08 §1, 2008)

Sec. 16-25-30. Applicability of procedures.

(a) The procedures in Sections 16-25-40 through 16-25-80 shall be followed to effect any proposal for:

- (1) A rezoning of property;
 - (2) The initial zoning of any property which is annexed to the City;
 - (3) A special parking permit in an R-3 District pursuant to Section 16-8-10;
 - (4) A special review permit for an educational and training use in an R-4 District pursuant to Subsection 16-11-10(5);
 - (5) A special permit for certain uses in an R-A District as provided in Subsection 16-4-10(8);
- or

(6) A special permit for certain accessory uses in an R-4 District as provided in Subsection 16-11-10(3).

(b) In addition to any other applicable permit criteria provided for in this Code, the City Council shall consider the following criteria when considering and application under Paragraphs (a)(3), (4), (5) or (6) hereof, or for any other special permit pursuant to any other provision of this Chapter:

- (1) The area of the special uses in relationship to the total area of the principal use;
- (2) Any impacts on on-street or off-street parking in the neighborhood;
- (3) Any impacts on vehicle traffic in the neighborhood;
- (4) Noise;
- (5) Hours of operation;
- (6) Signage and lighting, if any, and the impact of the same on the neighborhood;
- (7) Other impacts of the proposed use on the health, safety and welfare of the neighborhood;
and
- (8) Compatibility with the uses of the principal building or improvements and with the other property uses within the neighborhood.

(c) Rezoning criteria. For the purpose of establishing and maintaining sound, stable and desirable development within the City, an applicant for rezoning shall establish that at least one (1) of the following criteria is met:

- (1) The land to be rezoned was initially zoned in error or the rezoning is of a technical or corrective nature in order to conform zone district boundaries with lot lines;
- (2) Because of changed or changing conditions in a particular area or in the City generally, it is in the public interest and reasonably necessary in promotion of the public health, safety or welfare to rezone a property to encourage development or redevelopment;
- (3) The rezoning is necessary to conform to the City of Edgewater Master Plan; or
- (4) The rezoning is necessary to provide land for a community-related use that was not anticipated at the time of adoption of the City of Edgewater Master Plan, but which use is generally consistent with the policies and goals of said plan, is in the public interest and is reasonably necessary in promotion of the public health, safety or welfare. (Prior code 23-443; Ord. 07-09 §§ 6, 7 2009; Ord. 07-09 §§6, 7, 2009)

Sec. 16-25-40. Hearing date.

Upon receipt of a recommendation on the proposal from the Planning and Zoning Commission pursuant to Section 16-25-60, the City Council shall establish, by motion, the time and place for a public hearing on the proposal. (Prior code 23-444; Ord. 07-09 §8, 2009)

Sec. 16-25-50. Notices; publication.

As soon as the time for a public hearing has been established, the City Council shall cause notices to be posted along the streets or upon the property to be affected and published at least two (2) times in a newspaper of general circulation within the City. The notices shall clearly indicate the nature of the proposal and the property to be affected, and shall contain a statement of the time and place when and where any and all interested persons may appear and be heard. The posting and first publication of said notice shall be not less than fifteen (15) days prior to the date fixed for the hearing. (Prior code 23-445; Ord. 07-09 §9, 2009)

Sec. 16-25-60. Investigation by Planning and Zoning Commission.

The City Council shall refer a proposal submitted pursuant to this Article to the Planning and Zoning Commission as soon as practical. Upon receipt of the proposal, the Planning and Zoning Commission shall conduct such investigation as it deems necessary or desirable and shall hold an informal hearing thereon. The Planning and Zoning Commission shall then present its recommendations in writing and stating the reasons therefor, to the City Council. (Prior code 23-446; Ord. 07-09 §10, 2009)

Sec. 16-25-70. Hearing.

At the time and place set for the public hearing, the City Council shall proceed to consider the proposal and shall consider all protests made in accordance with Section 16-25-80. The approval of any such proposal, and the establishment of any conditions of approval, shall be by ordinance. (Prior code 23-447)

Sec. 16-25-80. Protests.

(a) At any time, not later than the hour set for hearing the proposal, any owner of property within the district or parts of a district affected may make written protest against the proposal. Such protest must be in writing and be delivered to the City Clerk prior to the hour set for the hearing.

(b) If a protest against the proposal is presented, signed by the owners of twenty percent (20%) of the land within the property to be affected or by owners of twenty percent (20%) or more of the area of the lots immediately abutting either side of the property to be affected or separated therefrom only by an alley or a street, the proposal shall not be approved except by the favorable vote of at least six (6) members of the City Council. (Prior code 23-448)

Sec. 16-25-90. Conditional zoning generally.

In addition to any other applicable procedures, the City Council, at its discretion, may conditionally zone any tract of land in the following manner:

(1) Temporary release from restrictions. Following normal amendment procedures, the City Council may by resolution act to free an area from existing zoning restrictions on a temporary basis.

(2) Final development plans. The applicant or developer, upon receipt of temporary approval of the City Council, may proceed with his or her detailed final plans for the development of the area and his or her buildings, which plans shall be submitted to the Planning and Zoning Commission for final approval within six (6) months of the date of such resolution.

(3) Progress review; recommendation. After the final plans have been approved by the Planning and Zoning Commission, the Planning and Zoning Commission shall review the progress made by the applicant or developer. If said progress is within the final plans as submitted by the applicant or developer, the Planning and Zoning Commission shall recommend to the City Council a permanent zoning change. If no progress has been made other than as present in the final plans, then the Planning and Zoning Commission shall recommend a cancellation of the temporary grant of change of zoning to the City Council.

(4) Council action. The City Council shall act upon the recommendation of the Planning and Zoning Commission and shall either provide for permanent rezoning of the area involved or shall revoke the conditional zoning.

(5) Additional hearings. The City Council may hold, at its discretion, additional public hearings on the proposed zoning change by following the procedure outlined in this Section. (Prior code 23-449)

Sec. 16-25-100. Application fees and cash deposits.

(a) An application to initially zone or to rezone any property shall be accompanied by a land use application fee in the amount of seven hundred fifty dollars (\$750.00) and by a development review cash deposit in the amount of two thousand five hundred dollars (\$2,500.00).

(b) An application for any special permit to be issued under the provisions of Section 16-25-30 of this Article shall be accompanied by a land use application fee in the amount of four hundred thirty dollars (\$430.00), and by a development review cash deposit in the amount of one thousand five hundred dollars (\$1,500.00). (Ord. 15-10 §7, 2010)

ARTICLE 26

Home Occupations

Sec. 16-26-10. Generally.

(a) A home occupation is an occupation conducted for any business or commercial purpose, located entirely within a residential building and/or an accessory building associated with the residential use, and is accessory, incidental and secondary to the use of the building for dwelling purposes and does not affect the residential character or appearance of the dwelling.

(b) It is the intent of this Article to regulate a home occupation so the residents of the neighborhood will not be adversely affected by its existence.

(c) A home occupation shall be allowed only in residentially zoned districts. An occupation which is conducted in a home located in a zone district other than a residentially zoned district shall

not be construed to be a home occupation, shall meet the applicable requirements of the zone district in which the home is located and shall otherwise comply with the applicable requirements of this Code.

(d) No more than twenty-five percent (25%) of the total surface area of the residential building and any accessory building associated with the residential use shall be used for purposes of the home occupation.

(e) No person shall operate a home occupation without applying for and keeping in force a home occupation business license as provided in Chapter 6, and no person shall operate a home occupation except in compliance with this Code and other applicable laws and in compliance with all conditions of the license.

(f) The following occupations, because of their detrimental impact on the character and value of residential properties or on the peace, tranquility, safety and quiet of a residential zone district, are prohibited as home occupations:

- (1) Veterinary office or clinic, animal hospital or kennel.
- (2) Equipment rental.
- (3) Funeral chapel, mortuary or funeral home.
- (4) Wedding chapel.
- (5) Repair or painting of motor vehicles or motor vehicle parts, including but not limited to automobiles, trucks, motorcycles and trailers or any part thereof, or of boats or any part thereof.
- (6) Repair of large appliances, including but not limited to stoves, refrigerators, washers and dryers.
- (7) Repair of power equipment, including lawn mowers, snow blowers, chain saws and string trimmers.
- (8) Restaurants.
- (9) Welding or metal fabrication.
- (10) Dispatching of vehicles to and from the premises, including but not limited to towing services and taxi services.
- (11) The sale of firearms.
- (12) Any operation requiring any liquor or fermented malt beverage license other than a bed and breakfast permit issued pursuant to the state liquor code; or
- (13) Any hotel or motel operation; except that a bed and breakfast operation shall be permitted as long as it rents two (2) or fewer rooms, such rooms are located solely within the

principal residential building and any such room is rented only for purposes of overnight lodging to a paying overnight guest.

(g) Subsection (f) shall not apply to a licensee who holds a home occupation license for an occupation listed in Subsection (f) which was issued before September 1, 1994, unless:

- (1) Such license is revoked for cause;
- (2) The renewal of such license is denied for cause;
- (3) Such license is permitted to expire or the licensee fails to seek timely renewal of such license; or
- (4) The home occupation for which such license was issued is discontinued or ceases for a period of one (1) year or more. (Prior code 23-461; Ord. 12-08 §1, 2008)

Sec. 16-26-20. Criteria.

(a) A home occupation must meet all of the following criteria:

(1) A minor home occupation shall be conducted entirely within the principal building and/or an accessory building associated with the residential use. The use of any portion of the property other than such principal and/or accessory building, including but not limited to the yard, shall be permitted for a major home occupation only if it is demonstrated that such use will be accomplished without adversely affecting the residential character or appearance of the dwelling, without disturbing the peace, tranquility, safety and quiet of the residential zone district and without otherwise adversely affecting the neighborhood, and then only to the extent and in the manner allowed in the license.

(2) Exterior alterations or additions to an accessory building for the purpose of accommodating a home occupation are prohibited.

(3) There shall be no exterior storage or display of materials, goods, supplies or equipment used in the home occupation.

(4) Only one (1) nonilluminated sign not exceeding one (1) square foot in area and pertaining to the use thereof or providing the name of the home occupation shall be permitted. A vehicle sign displaying the name of the home occupation shall be counted for purposes of this Paragraph unless the sign is one which is painted onto the side of or is magnetically affixed to the vehicle.

(5) Only those persons who reside within the dwelling may be engaged in the home occupation; provided, however, that not more than one (1) employee who does not reside within the dwelling may be employed in a home occupation.

(6) The parking, stopping or standing of any vehicle related to the home occupation shall be confined to the street frontage of the property containing the home occupation, the driveway and the garage or carport.

(7) The home occupation shall not generate noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, traffic or parking congestion or any other nuisance or hazard which disturbs or tends to disturb the peace, tranquility, safety and quiet of a residential zone district.

(8) Storage of hazardous materials shall be permitted only in conformity with the Uniform fire code as adopted by the City.

(9) The home occupation shall not increase the life safety hazard rating of the principal building or any accessory building, as such rating is defined in the Uniform building code as adopted by the City.

(10) The home occupation shall comply with such additional requirements as are made conditions of the approval of a home occupation business license under Chapter 6.

(11) Except as specifically authorized by Paragraph (6) hereof, no street, alley or other public way of the City shall be occupied for any purposes associated with the home occupation.

(b) Any occupation which is subject to county, state, or federal laws or regulations shall not be exempt from conforming to those laws and regulations when operated as a home occupation; however, nothing herein shall permit any such occupation to be operated as a home occupation if any of those laws and regulations conflict with any requirements of this Code. In addition, nothing in this Chapter shall exempt any home occupation from conforming to all ordinances and regulations of the City, excepting only the provisions of this Article pertaining to permitted uses in a Residential 1 District or a Residential 2 District.

(c) Nothing in this Article shall authorize the operation of a home occupation in violation of any covenants, restrictions or conditions of record applicable to the property. (Prior code 23-462)

Sec. 16-26-30. Accessory buildings.

For the purposes of this Article, an *accessory building* means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the use of the land and which is located on the same property or site as the main building or use. Any accessory building to be used for a home occupation must meet all the following criteria:

(1) Only one (1) such accessory building, excluding a garage, shall be allowed.

(2) The accessory building shall conform to the height and lot coverage restrictions of Sections 16-6-20 and 16-6-70.

(3) No accessory building shall be used as a dwelling, living or shelter unit by any person or animal for any period of time.

(4) No structure which was originally designed and manufactured to be mobile or moveable by use of wheels, whether attached or detached, such as a trailer, camper or mobile home, shall be used as an accessory building.

(5) Approved sanitation facilities shall be provided on site for an employee of a home occupation which conducts its business entirely within an accessory building. Such sanitation facility shall meet applicable codes and may be located in the principal building.

(6) Any accessory building used for a home occupation shall be equipped with fire and safety equipment as required by the Fire Department and Police Department and the Building Official. (Prior code 23-463)

ARTICLE 27

Development Standards for Manufactured Homes

Sec. 16-27-10. Conformance required.

No building, structure, manufactured housing unit or land shall be used, and no building, structure or manufactured housing unit shall be erected, installed or structurally altered except as provided for in this Article. (Prior code 23-464)

Sec. 16-27-20. Definitions.

For purposes of this Article, the following words and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Manufactured housing structure, manufactured home or manufactured housing unit means single-family detached housing that is partially or entirely manufactured in a factory and is installed on an engineered permanent foundation, and shall, for the purposes of this Article, incorporate structures known as *manufactured homes* without further restrictions, as contained in Section 3123-301(5), C.R.S.

Mobile home means manufactured housing built on a chassis which is designed to be installed on temporary foundations, attached to the ground with tie-down straps and attached to natural or propane gas distribution piping, electrical distribution wiring and plumbing waste sewer lines on a mobile home pad specifically designed with such attachment points. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, including the location requirements set forth in Article 13, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. (Prior code 23-465)

Sec. 16-27-30. Acceptable similarity of development.

(a) Development review. All proposed development of manufactured housing must be on permanent foundations and shall comply with site development plan requirements set forth in Chapter 17, Article 4, as such requirements are applicable. In addition to the requirements contained in Section 17-4-70, the applicant shall demonstrate compliance with the standards set forth in Subsection (b), and that the project is internally compatible or consistent with the surrounding housing development.

(b) Standards. The acceptable similarity development standards shall be as follows:

(1) Each manufactured housing unit shall be sited on a lot so that placement is consistent and compatible with the placement of other residential units in the surrounding neighborhood.

(2) Only one (1) manufactured housing unit shall be allowed per lot, and no manufactured housing unit shall be located on a lot upon which any other dwelling is located.

(3) In development of single vacant sites within a developed area, the unit shall be compatible with structures on adjacent properties. Development of manufactured housing shall comply with site plan, development standards or other design criteria as required for the underlying zone district.

(4) Units shall not be less than twenty-four (24) feet in width or thirty-six (36) feet in length.

(5) The main roof shall have a pitched roof with a minimum four-inch vertical rise for each twelve (12) inches of horizontal run.

(6) Each unit shall be faced in siding, brick, a combination thereof or other cosmetically equivalent exterior siding.

(7) The foundation shall form a complete enclosure and shall be engineered as a permanent structure.

(8) All lots shall be required to have landscaping compatible or consistent with the surrounding neighborhood.

(9) All units shall include a garage, unless such requirement is inconsistent with the surrounding neighborhood.

(10) Architectural compatibility with adjacent development shall be provided through use of similar colors, building materials, design details, massing, scale or architectural style, including such structural features as porches, alcoves, bay windows, broken roof pitch lines, wood trim, shutters and other exterior decorative features.

(11) No manufactured home may be altered before being placed on a permanent foundation, and all manufactured homes must be certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, and built for the Colorado climate and snow loads according to the Department of Housing and Urban Development standards established under the provisions of 42 U.S.C. § 5401, et seq.

(12) All components of any frame used for transporting the manufactured home must be removed prior to setting. As used herein, a transportation frame is anything to which the axles or wheels are attached, or the towing mechanism used to transport the manufactured home.

(13) All dwellings shall receive a certificate of occupancy or certificate of completion from the Building Official before occupancy of the home, to ensure that all applicable code requirements have been met. (Prior code 23-466)

Sec. 16-27-40. Ownership of land and structure.

Ownership of the manufactured housing unit and of the real property upon which it is located shall not be divided. (Prior code 23-467)

ARTICLE 28

Planned Unit Developments

Sec. 16-28-10. Purpose.

The purpose of this Article is to provide for greater variety and choice of design for urban living, to gain efficiency, to coordinate design development efforts, to conserve and make available open space, to utilize new technology in urban land development and to gain flexibility over conventional land control regulations. (Prior code 23-481)

Sec. 16-28-20. Scope.

The PUD is a type of customized zoning that may be utilized in any underlying zone district to achieve those purposes set forth in Section 16-28-10 above. An application for a PUD shall comply with the rezoning requirements of Article 25 of this Chapter. (Ord. 12-08 §1, 2008)

Sec. 16-28-30. Underlying district regulations and development design standards and guidelines to apply.

All requirements applicable to the underlying zone district or districts in which the property is located as set forth in this Chapter and Chapter 17, and in any adopted City development design standards and guidelines, including but not limited to lot area, lot coverage, lot width, height, setbacks, parking, signage and buffers, shall apply. However, any such requirements, including the location of residential units in the residential-commercial zone districts, may be modified through the approval process of the planned unit development if it is determined that the spirit and intent of the development plan criteria are met and that the modification or waiver is warranted by the design and amenities incorporated in the development plan. Such approval pursuant to this Article shall constitute approval of any exceptions or variances that would otherwise be required under Subsection 2-10-30(2). (Prior code 23-483; Ord. 12-08 §1, 2008)

Sec. 16-28-40. Preapplication conference.

Prior to accepting an application for approval of a PUD, the City Engineer shall conduct a preliminary review of the submittal, identify any deficiencies and, if determined necessary, hold a preapplication conference with the applicant to discuss the PUD procedures and guidelines with the applicant. (Prior code 23-484; Ord. 12-08 §1, 2008)

Sec. 16-28-50. Application.

Twenty-one (21) copies of an application for approval of a PUD shall be filed with the City Clerk by the owner or agent of the owner of the entire land area to be included within the project, which

application shall be signed by all owners or their representatives. The application shall contain the following items:

- (1) The applicant's name, address and interest in the application.
- (2) The names and addresses of all owners of the property and the holders of deeds of trust, identifying which owners and holders of trust are represented by the applicant.
- (3) A legal description and map of the property drawn to scale, which shall include:
 - a. The land area within the PUD and the use and present zone classification of the designated;
 - b. The zone classification and use of all properties within two hundred (200) feet of the subject property;
 - c. All public and private rights-of-way and easements bounding and intersecting the subject property which are proposed to be continued, created, relocated and/or abandoned;
 - d. The location of all existing and proposed structures and the specific use or uses of each; and
 - e. Topographical information, including contour at two-foot intervals.
- (4) A development plan, drawn at a scale of not less than one (1) inch per fifty (50) feet and on paper at least eight and one-half (8½) by eleven (11) inches, and a written description of the proposed development. The development plan and/or the description shall show or stipulate the general location, arrangement, extent and character for each of the following where applicable, unless determined by the City Engineer to be unnecessary:
 - a. Adjacent streets and alleys.
 - b. Land uses by type, including the gross acreage or square footage of each proposed use.
 - c. Structures or building envelopes by type of use, maximum height of structures, maximum gross floor area for each land use and land coverage of buildings and impervious areas.
 - d. Residential densities by housing type and maximum number of dwelling units, to be calculated as the ratio of the number of living units per net acre of development.
 - e. Any interior streets or drives.
 - f. Parking, loading and outdoor storage areas and access thereto, including any areas for storage of boats, campers, trailers and recreational vehicles.
 - g. Public and private open and recreation space, indicating proposed ownership and responsibilities for maintenance thereof.

- h. Landscape plan for the site and City right-of-way, including typical materials.
- i. For any application other than for exclusively residential uses, a traffic study.
- j. Buffer areas and fencing, including purpose, type, timing of construction and height.
- k. Pedestrian circulation.
- l. Existing and proposed utilities and any extension necessary to serve the development, including easements where necessary for the construction, maintenance and operation of each utility.
- m. Dimensions of separations between buildings, streets and other features.
- n. Land dedications and public improvements.
- o. Drainage plan, addressing areas subject to flooding, retention areas and surface drainage.
- p. Location, size and lighting of signs.
- q. Treatment of sound, vibration, glare, radiation, fumes and heat emission which will extend beyond the PUD.
- r. Elevation views of the structure and landscaping, including a bulk plane line in conformance with Section 16-1-50 of this Code.
- s. Fire protection facilities and access means for firefighting equipment.
- t. Other elements, such as architectural concepts, building elevations, facade treatments and exterior building materials, as necessary to establish how the proposed PUD uses and structures relate to the neighborhood property.
- u. Such other information as determined necessary by the City Engineer for proper review and evaluation of the application.

(5) A written statement generally describing the proposed PUD and the market which it is intended to serve, its relationship to the Comprehensive Plan and how the proposed PUD is to relate to the use of the neighboring property. Where the applicant's objectives are not in substantial conformance with the Comprehensive Plan, the statement shall include the changed or changing conditions that justify approval of the proposed PUD.

(6) A proposed development schedule of improvements setting forth timing for construction of the development. (Prior code 23-485; Ord. 10-07 §6, 2007; Ord. 12-08 §1, 2008)

Sec. 16-28-60. Criteria for approval.

PUD approval shall be granted by the City only if the applicant demonstrates that:

- (1) The proposed project shall not be detrimental to present and potential surrounding land uses.
- (2) Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project.
- (3) Services, including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy so as to comply with level of service standards or guidelines contained in the Comprehensive Plan.
- (4) The proposed development contains the required parking spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
- (5) The project conforms with the purposes and standards prescribed in this Chapter.
- (6) The project is compatible with the general purpose, goals, objectives and standards of the Master Plan.
- (7) The project provides benefits to the City that outweigh its adverse effects.
- (8) The project provides for the installation of permanent address identification signs on the front of each building and on the alley side of the garage to allow quick identification by emergency service personnel. (Prior code 23-485.5; Ord. 12-08 §1, 2008)

Sec. 16-28-70. Review.

(a) Upon receipt of a completed application, the City Clerk, shall transmit a copy of such application to the City Engineer, Planning and Zoning Commission, City Council, Public Works Director, City Attorney and such other agencies, either public or private, as may be deemed by the City Engineer to have an interest.

(b) The Planning and Zoning Commission shall cause notice to be posted upon the property to be affected and published in a newspaper of general circulation within the City at least ten (10) days prior to the public hearing concerning the PUD application. The applicant shall mail notice of the public hearing on the PUD application to all property owners within fifty (50) feet of each property line at least ten (10) days prior to the public hearing. The names and addresses of the current property owners shall be obtained from the County Assessor's Office. The applicant shall provide a copy of the mailed notice, a list of the notice recipients and an affidavit of mailing at the time of the hearing. The applicant or a representative of the applicant must attend the public hearing before the Planning and Zoning Commission and demonstrate that the PUD application is in compliance with the criteria for approval set forth in this Article.

(c) At the conclusion of the public hearing, the Planning and Zoning Commission shall pass a resolution recommending approval, with or without conditions, if the PUD application is in compliance with the criteria for approval set forth under this Article. If the PUD application is not in compliance with the criteria for approval set forth under this Article, the Planning and Zoning Commission shall pass a resolution recommending denial of the application. A copy of the resolution

passed by the Planning and Zoning Commission shall be transmitted to the City Council prior to its next regularly scheduled meeting, and the City Council shall schedule and hold a public hearing in accordance with Subsection (e).

(d) When reviewing a PUD application for residential development, a recommendation of the Planning and Zoning Commission for approval shall constitute final approval unless the applicant requests, or the City Council directs, City Council review of the application. An applicant request for review shall be filed in writing by no later than the close of business on the Monday before the next regular City Council meeting that is scheduled to be held at least seven (7) days after said Planning and Zoning Commission meeting at which the Planning and Zoning Commission adopted its recommendation. A City Council request for review shall be approved by motion made at the next regular City Council meeting scheduled to be held at least seven (7) days after said Planning and Zoning Commission meeting.

(e) Any PUD application which requires a rezoning or which is for other than exclusively residential use will be submitted to the City Council for action. The City Council shall hold a public hearing on the application and may approve, disapprove, approve with conditions or modifications or request that the PUD application be further reviewed by the Planning and Zoning Commission. Notice of the public hearing shall be posted upon the property to be affected and published in a newspaper of general circulation within the City at least ten (10) days prior to the public hearing.

(f) After the PUD has been granted final approval by the Planning and Zoning Commission or the City Council, it shall be recorded with the County Clerk and Recorder at the applicant's expense. (Prior code 23-486; Ord. 12-08 §1, 2008)

Sec. 16-28-80. Construction procedures and building permits.

(a) Subject to Subsection (b) hereof, the appropriate officials shall issue building permits for buildings and structures in the area covered by the approved PUD, provided the PUD has been recorded, if such buildings and structures are in conformity with the approved PUD and with all other applicable ordinances and regulations.

(b) No building permit shall be issued more than thirty-six (36) months after final approval of the PUD development plan unless an extension of time is approved by City Council and issuance is within such extension. (Prior code 23-487; Ord. 10-07 §7, 2007; Ord. 12-08 §1, 2008)

Sec. 16-28-90. Amendments to development plan.

No changes may be made in an approved PUD development plan prior to or during construction of the PUD except upon application to the City under the procedures provided below:

(1) Minor changes in the location, siting and height of buildings and structures and other minor changes may be authorized by the City Engineer if such changes are required by engineering or other circumstances not foreseen at the time the PUD development plan was approved. Any administrative approvals granted under this Section shall be transmitted to the Planning and Zoning Commission and the City Council for their information by written memorandum from the City Engineer.

(2) All changes in use or density of the PUD, changes in the arrangements of lots, blocks and buildings, any changes in the provision of common open spaces and all other changes in the approved development plan, except those that are minor changes under Subsection (1) hereof, must be approved under the procedure authorized for the original plan approval.

(3) Any changes that are approved for the development plan must be recorded at the applicant's expense as an amendment to the recorded copy of the development plan.

(4) All changes for which authorization is required under Subsection (1) or (2) hereof shall comply with adopted City development ordinances, design standards and guidelines. (Prior code 23-488)

Sec. 16-28-100. Enforcement of development schedule and plan.

(a) PUD development plans approved pursuant to this Article shall be binding upon the owner of the property and his or her successors and assigns and may be enforced pursuant to Section 16-1-60 or as set forth in this Section, at the City's option.

(b) From time to time, the Planning and Zoning Commission shall hold a public hearing to compare the actual development accomplished in the various PUDs previously approved with the development schedule and the development plan of each project. If the owner of the property in the PUD has failed to meet the approved development schedule or development plan and any supplementary agreements, proceedings to review the previously approved development plan and schedule may be initiated. Such review shall occur in the same manner as review of the initial development plan, and, upon such review, the PUD approval may be revoked or the limits of the development schedule may be extended. As a condition of approval, no certificate of occupancy shall be issued if the Planning and Zoning Commission or the City Council, as applicable, determines that the development does not conform to the approved plan.

(c) Adequate assurance, including but not limited to a public improvements development agreement and/or a bond, letter of credit or other guarantee may be required to ensure that the common open space and other public improvements required by the development plan will be provided and developed at the expense of the applicant. (Prior code 23-489; Ord. 12-08 §1, 2008)

Sec. 16-28-110. Control of development after completion.

After the PUD has been substantially completed, the use of the land and the construction, modification or alteration of any buildings or structures within the PUD will be governed by the approved development plan rather than by any other provisions of this Chapter. No changes may be made in the approved development plan, except upon application to the City under the procedures provided below:

(1) Any minor extension, alteration or modification of existing buildings or structures may be authorized by the City Engineer if they are consistent with the purposes and intent of the final plan.

(2) Any uses not authorized by the approved final plan, but permitted as of right or by special review in the zone district in which the PUD is located, may be added to the development plan pursuant to the procedures for amendment to the PUD.

(3) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the approved development plan unless an amendment to the development plan is approved.

(4) All other changes in the development plan, including changes in the use of common open space, must be approved in the same manner provided in this Article for initial development plan approval. No changes shall be approved in the development plan unless they are required for the continued successful functioning of the PUD, or unless they are required by changes in conditions that have occurred since the PUD was approved or by changes in the development policy of the community. (Prior code 23-490; Ord. 12-08 §1, 2008)

Sec. 16-28-120. Powers.

Notwithstanding any other provision of this Article, the Board of Adjustment has the power under Section 11.5 of the Charter to hear and decide, and grant or deny, applications for variances on individual lots from the provisions of an approved PUD development plan if all legal requirements have been met. (Prior code 23-491; Ord. 12-08 §1, 2008)

Sec. 16-28-130. Assurances of completion.

In those cases where a PUD is applied for on one (1) or more subdivided lots, but which does not have in place an agreement with the City for the completion of public improvements as required in Section 17-5-20, such an agreement shall be executed, and improvement guarantee required by Section 17-5-30 shall be posted, prior to recording any documents relating to the PUD. (Prior code 23-492; Ord. 12-08 §1, 2008)

Sec. 16-28-140. Application fees and cash deposits.

(a) An application for a PUD shall be accompanied by a land use application fee in the amount of eight hundred dollars (\$800.00) and by a development review cash deposit in the amount of two thousand five hundred dollars (\$2,500.00).

(b) An application to amend a previously approved PUD that is subject to the initial approval process in accordance with Paragraph 16-28-90(2) of this Article shall be accompanied by a land use application fee in the amount of five hundred dollars (\$500.00) and by a development review cash deposit in the amount of one thousand five hundred dollars (\$1,500.00).

(c) An application to amend a previously approved PUD that is subject to administrative review in accordance with Paragraph 16-28-90(1) of this Article shall be accompanied by a land use application fee in the amount of three hundred dollars (\$300.00) and by a development review cash deposit in the amount of five hundred dollars (\$500.00). (Ord. 15-10 §8, 2010)

ARTICLE 29

Drainage, Stormwater Management and Erosion Control

Sec. 16-29-10. Natural drainage system preferred.

(a) To the extent practicable, all development shall conform to the natural contours of the land, and natural and preexisting manmade drainageways shall remain undisturbed.

(b) To the extent practicable, lot boundaries shall coincide with natural and preexisting manmade drainageways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainageways. (Prior code 23-511; Ord. 30-04 §1, 2004)

Sec. 16-29-20. Proper drainage required.

(a) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan; or

(2) The retention is not substantially different in location or degree from that experienced by the development site in its predevelopment state, unless such retention presents a danger to health or safety.

(b) No surface water may be channeled or directed into a sanitary sewer.

(c) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainageways on surrounding properties or streets.

(d) All drainage structures and flood control measures shall be constructed according to the most recent version of the Urban Drainage and Flood Control District Standards, except as follows: water depth in a one-hundred-year event shall not exceed six (6) inches in parking lots. (Prior code 23-512; Ord. 30-04 §1, 2004)

Sec. 16-29-30. Stormwater management.

(a) All drainage and floodplain systems shall be designed to permit the unimpeded flow of natural water sources.

(b) All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:

(1) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby causing substantial change to such higher adjacent properties; and

(2) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at locations or volumes as to cause substantial damage to such lower adjacent properties.

(c) The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but, where applicable, shall accommodate the runoff from those areas adjacent to and upstream from the subdivision itself, as well as its effects on lands downstream.

(d) The drainage system shall be designed to prevent any increase in runoff from the development site as a result of development. Stormwater drainage from the site shall be restricted by the drainage system to a level equal to the historic flows from the undeveloped site.

(e) Complete drainage systems for the entire development area shall be designed by a professional engineer, licensed in the State and qualified to perform such work. All existing drainage features which are to be incorporated in the design shall be so identified. All proposed surface drainage structures shall be indicated and all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations shall be included in the drainage plans. If the development is to be constructed in phases, a general drainage plan for the entire area shall be presented with the first phase, and appropriate development stages for the drainage system for each phase shall be indicated.

(f) A study detailing methods of handling all drainage shall be submitted and approved by the City. (Prior code 23-513; Ord. 30-04 §1, 2004)

Sec. 16-29-40. Sediment and erosion control; land disturbance permit.

(a) Purpose. The purpose of the land disturbance permit process is to prevent soil erosion and sedimentation from occurring as a result of nonagricultural development within the City, and to establish minimum standards for the protection of exposed or disturbed soil surfaces and for surface water retention and drainage during and after construction.

(b) Applicability. Any person proposing to construct improvements or facilities or to develop or redevelop land within the City shall comply with the standards and procedures specified in this Article. No such person shall disturb land until such person has obtained a valid land disturbance permit or has been exempted from the provisions of this Article. No construction or building permit shall be approved until the requirements of this Article have been met.

(c) Exemptions. The following activities shall be exempt from this Article unless the City determines that a particular hazard exists:

(1) Non-construction related activities associated with residential and community gardening;

(d) Soil erosion and sediment control plans. A soil erosion and sediment control plan shall be prepared and shall conform to the requirements of the City's "Construction Stormwater Plan Review, Site Inspection and Enforcement Plan."

(e) Land disturbance permit. This Article establishes a two-stage process to govern land disturbance within the City:

(1) All persons to whom this Article applies pursuant to Subsection (b) above must file with the City Clerk an application on the form provided describing the proposed location and extent of the land disturbance activity.

(2) A land disturbance permit is required if the City determines that the proposed land disturbance activity is not exempt under Subsection (c) hereof. No grading, vegetation removal, filling or other land disturbance shall occur until the City has reviewed and approved the applicant's erosion and sediment control plan and issued a valid land disturbance permit. A permit is not required if an erosion and sediment control plan for the subject property has been approved as part of any subdivision plat approval, special use permit approval, or site development plan approval.

(3) Prohibited activities. No permit shall be issued if:

a. The proposed work, in the determination of the City, would cause erosion or sedimentation which would cause hazards to the public safety and welfare;

b. The proposed work will damage any public or private property or interfere with any existing drainage course or irrigation ditch in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property;

c. The land area for which land disturbance is proposed is subject to geologic hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope, instability or any other such hazard to persons or property; or

d. The land area for which the land disturbance is proposed lies within a designated floodplain or any stream or watercourse, unless a hydrologic report prepared by a professional engineer is submitted certifying that the proposed land disturbance will have no detrimental influence upon the public welfare or upon the total development of the watershed, and such conclusion is approved by the City.

(4) Permit application. The applicant shall submit a separate application for each site upon which land disturbance is to occur.

(5) Application fee. Each application for a land disturbance permit shall be accompanied by a nonrefundable fee in an amount as set forth in an ordinance adopted by the City Council from time to time.

(6) Administrative review and approval. The application shall be reviewed by the City Manager or the Manager's designee, and may be approved if the City Manager or the Manager's designee finds that the application complies with this Code. Appeals of any decision made by the City Manager or the Manager's designee may be made to the Board of Adjustment pursuant to Article 24.

(7) Modification of the erosion and sediment control plan. The City may approve, disapprove or approve with conditions an application to allow a new or modified erosion and sediment control technique or plan amendment. In reviewing such application, the City may require reports and data sufficient to render such a decision. No grading work in connection with any proposed modification shall be permitted without the approval of the City.

(f) Applicant and permittee responsibilities.

(1) The applicant shall install and perform all erosion and sediment control measures in accordance with the approved erosion and sediment control plan. All other construction (i.e., streets, utilities, etc.) shall be completed according to the approved final construction drawings and specifications. All erosion and sediment control measures, both temporary and permanent, shall be adequately maintained by the applicant and all subsequent owners of the property, unless alternative maintenance arrangements are otherwise agreed to by the City.

(2) Regular maintenance, including mowing, sediment removal, repairs of eroded areas, cleaning of inlets and outlets, debris removal and weed control, shall be performed as needed. All erosion and sediment control facilities shall be inspected by the permittee following any heavy rainfall, and necessary emergency maintenance shall be completed as soon as possible thereafter. If maintenance is not performed, the City may elect to maintain the erosion and sediment control facilities and charge the owner for all associated costs.

(3) During grading operations, the permittee shall be responsible for:

a. The prevention of damage to any public utilities or services within the limits of grading and along any routes of travel of the equipment.

b. The prevention of damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.

c. The prompt removal of all soil, miscellaneous debris or other materials applied, dumped or otherwise deposited on public streets, highways, sidewalks, public thoroughfares or irrigation ditches during transit to and from the construction site, where such spillage constitutes a public hazard in the determination of the City Manager or the Manager's designee.

(g) Enforcement and inspection.

(1) The City, through periodic inspections, shall determine whether the work covered by the land disturbance permit is in conformance with the approved erosion and sediment control plan. The City may stop work if such work does not comply with the approved plan.

(2) Notwithstanding the existence or pursuit of any other remedy, the City may maintain an action in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this Article.

(3) Upon satisfactory execution of all approved plans and receipt of a written statement by a registered engineer that all improvements have been constructed according to the approved plan, the City shall issue a certificate of completion. (Prior code 23-514; Ord. 30-04 §1, 2004; Ord. 02-11 §1, 2011)

Sec. 16-29-50. Stormwater quality requirements; applicability.

(a) Colorado Department of Public Health and Environment (hereinafter "CDPHE") permit required. It shall be unlawful for any person to conduct any activity resulting in the following total disturbed area without first obtaining a CDPHE stormwater general permit for construction activities.

(1) One (1) acre or more.

(2) Less than one (1) acre if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(b) City land disturbance permit required. A land disturbance or grading permit from the City may be required in areas with a potential high effect on water quality regardless of the size of the total disturbed area in conjunction with approval of a final subdivision plat, special use permit, or site development plan, or if the construction activities are adjacent to a watercourse or wetlands.

(c) If required in Subsection (a) above, an application for a grading or building permit from the City shall also include documentation of an application for a CDPHE stormwater general permit for construction activities and a completed stormwater management plan.

(d) Construction activities may not proceed until permit approval is received from the CDPHE, if required, and the City. (Ord. 02-11 §2, 2011)

Sec. 16-29-60. Construction Stormwater Management Plan.

(a) A Construction Stormwater Management Plan (hereinafter a "SWMP") shall be prepared based on the practices and details outlined in the Urban Drainage and Flood Controls District's (UDFCD's) *Drainage Criteria Manual, Volume III Construction BMPs*, Section 3.0 – Construction Activities Management – Planning and Implementation section. This section outlines measures for the proper handling of construction site waste that may cause adverse impacts to water quality. The Best Management Practices (hereinafter "BMPs") must be implemented to control wastes such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other non-stormwater discharges including construction dewatering and wash water.

(b) The owner or his or her representative will be required to have the approved SWMP on site at all times when work is occurring and shall be prepared to respond to maintenance of specific BMPs.

(c) The owner or his or her representative shall inspect all BMPs at least every fourteen (14) days and within twenty-four (24) hours after any precipitation or snowmelt event that causes surface runoff. Inspections of BMPs shall be conducted by an individual who has successfully completed training in erosion and sediment control by a recognized organization acceptable to the City Manager

or the Manager's designee. A certification of successful completion of such training shall be provided upon request.

(d) Based on inspections performed by the owner or by City personnel, modifications to the SWMP will be necessary if at any time the specified BMPs do not meet the objectives of this Article. In such cases, the owner shall meet with the City Manager or the Manager's designee to determine the appropriate modifications. All modifications shall be completed as soon as possible after the referenced inspection, and shall be recorded on the owner's copy of the SWMP.

(e) SWMP review/changes. The operator shall amend the plan whenever there is a significant change in design, construction, operation or maintenance, which has a significant effect on the potential for discharge of pollutants to the MS4 or receiving waters, or if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activities.

(f) Records of inspection are to be maintained on site with the SWMP and are to be available to the City inspector upon request. (Ord. 02-11 §2, 2011)

Sec. 16-29-70. Technical standards and specifications.

All BMPs designed to meet the requirements of this Article shall comply with the following technical standards and be based on the practices and details outlined in Volume III of the Urban Drainage and Flood Control District's (UDFCD's) *Drainage Criteria Manual Volume III*:

(1) City Rules and Regulations.

(2) Any other alternative methodology approved by the City, which is demonstrated to be effective. (Ord. 02-11 §2, 2011)

Sec. 16-29-80. Post-construction stormwater management

(a) Land development must address stormwater runoff quality through the use of permanent BMPs which shall be maintained in perpetuity. For land disturbances that are governed by Subsections 16-29-50(a) and (b) above, permanent BMPs for post-construction shall be required in accordance with this Section.

(1) Structural BMPs located on private property shall be constructed, owned and operated by the owner of the property on which the BMP is located unless the City, in writing, agrees that a person other than the owner shall construct, own or operate such BMPs.

(2) As a condition of approval of the BMP, the owner shall also agree to maintain the BMP to its design capacity unless or until the City relieves the property owner of that responsibility in writing and accepts the BMP for public maintenance. The obligation to maintain the BMP shall be memorialized on the subdivision plat, annexation plat, development agreement or other instrument or in a form acceptable to the City and shall be recorded in the office of the County Clerk and Recorder.

(b) Certification of permanent BMPs. Prior to final acceptance of a project, all applicants are required to submit "as-built" plans for any permanent BMPs after final construction is completed, and the plans must be certified by a Colorado licensed professional engineer. A final inspection by the City is required before the release of any performance securities can occur.

(c) Ongoing inspection and maintenance of permanent BMPs.

(1) Maintenance agreements. The owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the City, execute an inspection and maintenance agreement that shall be binding on all subsequent owners of the permanent BMPs.

(2) Long-term inspection of permanent BMPs. Permanent BMPs included in a final construction plan, which are subject to an inspection and maintenance agreement, must undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the agreement, the plan and this Article. (Ord. 02-11 §2, 2011)

Sec. 16-29-90. Financial security.

(a) As a condition for the issuance of any permit pursuant to this Article, the applicant shall be required to provide security in the form of an irrevocable letter of credit in a form acceptable to the City Attorney. The amount of the security shall be one hundred ten percent (110%) of the estimated cost of the work, as determined by the City Manager or the Manager's designee, required to ensure compliance with the permit's terms and conditions and requirements of this Article. In determining the cost of work, a fifteen-percent (15%) administrative fee shall be included.

(b) The security shall be released upon the City's determination that the permittee has successfully completed all required work and met all other requirements of this Article within the time limits specified or, if no time limit is specified, within one (1) year of the date of issuance of the permit.

(c) If the permittee does not successfully complete all required work or violates any requirement of the permit or this Article, the City may take corrective measures and charge the costs of such to the permittee. Such costs shall include the actual cost of any work deemed necessary by the City plus reasonable administrative and inspection costs and penalties pursuant to the City's stormwater quality enforcement policy. If the total of such costs exceeds the security, the permittee shall be responsible for payment of the remaining balance within thirty (30) calendar days of receipt of an accounting of such from the City.

(d) Upon final inspection and issuance of a certificate of completion by the City, the security shall be released. (Ord. 02-11 §2, 2011)

Sec. 16-29-100. Enforcement and penalties.

(a) It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who violates any of the provisions of this Article shall be subject to one (1) or more of the enforcement actions outlined in this Section.

(b) In the event the violation constitutes an immediate danger to public health or public safety, the City Manager or the Manager's designee is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property.

(c) Cost of abatement of the violation.

(1) If the City abates a violation, then within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs, by personal delivered or by mail to the last known address of the owner as shown in the records of the County Assessor. The notice shall be effective upon the date of mailing or personal delivery. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days of the effective date of the notice.

(2) If no protest is filed, then the charges shall become due and payable on the date set forth in the notice, which date shall be after the expiration of the time in which to file an appeal, and such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(3) In the event a protest is filed, a hearing on such protest shall be held before the City Manager or the Manager's designee within fifteen (15) days from the date of receipt of the written protest. If any charges are upheld upon completion of such hearing, then such charges shall become due and payable ten (10) days after the issuance of the order upon such protest and, if not timely paid, such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(4) If the amount due is not paid within ten (10) days of the decision of the City Manager or the Manager's designee or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The assessment shall be certified by the Finance Director to the office of the County Treasurer for collection in the same manner as the collection of general property taxes.

(d) Stop work order. Whenever the City Manager or the Manager's designee determines that any activity is occurring which is not in compliance with the requirements of this Article, the City Manager or the Manager's designee can order the activity stopped upon service of written notice upon the responsible owner and/or operator. The owner and/or operator shall immediately stop all activity until authorized in writing by the City to proceed. If the owner and/or operator cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any owner and/or operator to fail to comply with a stop work order.

(e) Criminal penalties; enforcement costs. It is unlawful and an offense for any person to violate or permit or cause violation of this Article or of the provisions of any permit issued under this Article. Violators are subject to the penalties set forth in Section 1-4-20 of this Code. Each day or part of a day any violation occurs or continues is a separate offense.

(f) Violations deemed a public nuisance. Any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety and welfare, and is declared and deemed a public nuisance. Any court of competent jurisdiction shall enjoin violations of this Article, upon proof of such violations.

(g) Remedies not exclusive. Except as expressly provided above, the remedies in this Article are cumulative and the exercise of any one (1) or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this Article. The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. (Ord. 02-11 §2, 2011)

ARTICLE 30

Medical Marijuana

Sec. 16-30-10. Purpose and intent.

The purpose of this Article is to implement the provisions of Article 43.3 of Title 12, C.R.S., known as the Colorado Medical Marijuana Code, and to regulate medical marijuana businesses in the interest of public health, safety and general welfare. In particular, this Article is intended to regulate the sale and distribution of marijuana in the interests of patients who qualify to obtain, possess and use marijuana for medical purposes under Article XVIII, Section 14 of the Colorado Constitution, while promoting compliance with other state laws that prohibit trafficking in marijuana for nonmedical purposes. Nothing in this Article is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this Article shall not provide a defense to criminal prosecution under any applicable law. (Ord. 09-11 §1, 2011)

Sec. 16-30-20. Definitions.

(a) The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Applicant shall mean any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers, directors and shareholders of such entity.

Colorado Medical Marijuana Code shall mean Title 12, Article 43.3, C.R.S., as amended from time to time, and any rules or regulations promulgated thereunder.

Cultivation or *cultivate* shall mean the process by which a person grows a marijuana plant.

Financial interest shall mean any ownership interest, including, without limitation, a membership, directorship or officership, or any creditor interest, whether or not such interest is evidenced by any written document.

License shall mean a document issued by the City officially authorizing an applicant to operate a medical marijuana business pursuant to this Article.

Licensee shall mean the person or entity to whom a license has been issued pursuant to this Article.

Medical marijuana business or business shall mean a medical marijuana center, optional premises cultivation operation or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.

Residential zoning district shall mean and include the following zone districts: (1) Residential A District; (2) Residential B District; (3) Residential 1 District; (4) Residential 2 District; (5) Residential 3 District; (6) Residential-Commercial 1 District; (7) Residential-Commercial 2 District; (8) Residential 4 District; (9) Residential Planned Development District; and (10) Residential Trailer District.

State shall mean the State of Colorado.

(b) In addition to the definitions contained in Subsection (a) of this Section, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, Section 14, of the Colorado Constitution or the Colorado Medical Marijuana Code, and such definitions are hereby incorporated into this Article by this reference. (Ord. 09-11 §1, 2011)

Sec. 16-30-30. Licensing Authority created.

There shall be and is hereby created a Medical Marijuana Licensing Authority, hereafter referred to in this Article as the "Authority." (Ord. 09-11 §1, 2011)

Sec. 16-30-40. Composition of the Authority.

The Authority shall be the City Clerk. (Ord. 09-11 §1, 2011)

Sec. 16-30-50. Functions of the Authority.

(a) The Authority shall have the duty and authority pursuant to the Colorado Medical Marijuana Code and this Article to grant or deny licenses, as well as all powers of a local licensing authority as set forth in the Colorado Medical Marijuana Code.

(b) The Authority shall have the power to: (i) promulgate rules and regulations concerning the procedures for hearings before the Authority; (ii) require any applicant or licensee to furnish any relevant information required by the Authority; and (iii) administer oaths and issue subpoenas to require the presence of persons and the production papers, books and records at any hearing that the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by a district court of the State. (Ord. 09-11 §1, 2011)

Sec. 16-30-60. License required; term of license; renewal application.

(a) It shall be unlawful for any person to establish or operate a medical marijuana business in the City without first having obtained from the City and the State a license for each facility to be operated

in connection with such business. Such licenses shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current license shall constitute a violation of this Section.

(b) Any license issued by the Authority under this Article shall expire one year after the date of its issuance.

(c) An application for renewal of an existing license shall be made on forms provided by the City and the State. At the time of the renewal application, each applicant shall pay a nonrefundable fee to the City, as set forth in Section 16-30-200 below, to defray the costs incurred by the City for background investigations, review of the application and inspection of the proposed premises, as well as any other costs associated with the processing of the application. (Ord. 09-11 §1, 2011)

Sec. 16-30-70. Application requirements; payment of application fee.

(a) Prior to making an application for a license pursuant to the Colorado Medical Marijuana Code and the provisions of this Article, the person potentially seeking the license shall first attend at least one pre-application meeting with the City Manager, City Clerk and any other City official or employee whose presence is requested by the City Manager or City Clerk. The purpose of the pre-application meeting is to advise the potential applicant as to the process for applications under this Article, to answer preliminary questions from the potential applicant and to provide an opportunity to identify issues that might preclude the issuance of a license pursuant to this Article. Prior to such pre-application meeting, the potential applicant shall pay a pre-application fee to the City, as set forth in Section 16-30-200 below, to defray the costs incurred by the City in conducting the meeting. A person seeking a license pursuant to the Colorado Medical Marijuana Code and the provisions of this Article shall submit an application to the City on forms provided by the State and City. At the time of application, each applicant shall pay an application fee to the City, as set forth in Section 16-30-200 below, to defray the costs incurred by the City for background investigations, review of the application and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present for recording one (1) of the following forms of identification:

- (1) An identification card issued in accordance with Section 42-2-302, C.R.S.;
- (2) A valid state driver's license;
- (3) A valid driver's license containing a picture issued by another state;
- (4) A United States military identification card;
- (5) A valid passport; or
- (6) An alien registration card.

(b) The applicant shall also provide the following information on a form approved by, and acceptable to, the City, which information shall be required for the applicant, the proposed manager of the medical marijuana business and all persons having a financial interest in the medical marijuana

business that is the subject of the application or, if the applicant is an entity, having a financial interest in the entity:

- (1) Name, address, date of birth and other identifying information as may be required;
- (2) An acknowledgement and consent that the City may conduct a background investigation, including a criminal history check, and that the City will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including but not limited to records of deposits, withdrawals, balances and loans;
- (3) If the applicant is a business entity, information regarding the entity, including without limitation the name and address of the entity, its legal status and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
- (4) A copy of the deed reflecting the applicant's ownership of, or a lease reflecting the right of the applicant to possess, the proposed licensed premises;
- (5) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana business;
- (6) Evidence of the issuance of a valid City business license;
- (7) A clearly legible "to scale" diagram of the proposed licensed premises, no smaller than 8.5" x 11" and no larger than 11" x 17", showing, without limitation, the building layout, all entryways and exits to and from the proposed licensed premises, and all areas in which medical marijuana will be stored, grown, manufactured and/or dispensed;
- (8) A comprehensive business operation plan for the medical marijuana business that contains, at a minimum, the following:
 - a. A description of the security provisions and systems meeting the requirements of Section 16-30-110 of this Article;
 - b. A description of all products to be sold;
 - c. The hours of operation;
 - d. An exterior lighting plan; and
 - e. A description of any cultivation activities within the medical marijuana business which includes, without limitation, the area in which plants will be grown, a description of the lighting system for cultivation, a description of the ventilation and odor filtration system for the premises, if any, and a description of the automatic fire suppression system, if any; and
- (9) Any additional information that the Authority reasonably determines to be necessary in connection with the investigation, review and determination of the application.

(c) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana business, including, without limitation, any development approvals or building permits required by this Code.

(d) Upon receipt of a complete application, the Authority shall circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations. No license shall be approved until after the Authority has caused the proposed premises to be inspected to determine compliance of the premises with any applicable requirements of this Article and Code, and with the plans and descriptions submitted as part of the application. Within thirty (30) days after the completion of the Authority's investigation of the application, the Authority shall issue a written decision approving or denying the application for licensure, which decision shall state the reasons for the decision and be sent via certified mail to the applicant at the address shown in the application. In addition, the Authority shall promptly notify the State Medical Marijuana Licensing Authority of any approval of an application for local licensure.

(e) After approval of an application, the Authority shall not issue a license or license certificate until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of this Article. After approval of an application, the Authority shall not issue a license or license certificate until the applicant provides written evidence that the applicant has paid all license application fees due to the State in connection with the State Licensing Authority's review of the application. Each license certificate issued by the City pursuant to this Article shall specify the date of issuance, the period of licensure, the name of the licensee and the premises or optional premises licensed. (Ord. 09-11 §1, 2011)

Sec. 16-30-80. Denial of application.

The Authority shall deny any application that does not meet the requirements of this Article and may deny an application that does not meet the requirements of the Colorado Medical Marijuana Code. The Authority shall also deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall be subject to review by a court of competent jurisdiction. (Ord. 09-11 §1, 2011)

Sec. 16-30-90. Persons prohibited as licensees.

No license shall be issued to, held by or renewed by any of the following:

(1) Any natural person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or any person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation or use of a controlled substance;

(2) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity have been convicted of any of the applicable offenses within the time periods set forth in Paragraph (1) above;

(3) Any applicant who has made a false, misleading or fraudulent statement, or who has omitted pertinent information, on the application for a license;

(4) Any applicant for an optional premises cultivation operation license unless the applicant is simultaneously applying for, or currently holds, a license for a medical marijuana center or a medical marijuana-infused products manufacturing facility in the City; and

(5) Any applicant for a medical marijuana-infused products manufacturer license, unless the applicant is also applying for, or currently holds, a license for a medical marijuana center in the City. (Ord. 09-11 §1, 2011)

Sec. 16-30-100. Locational criteria.

(a) No medical marijuana business shall be issued a license if, at the time of application for such license, the proposed location is:

- (1) Within 500 feet of any licensed child care facility;
- (2) Within 500 feet of any educational institution or school, either public or private;
- (3) Within 500 feet of any halfway house, group home or correctional facility; or
- (4) Within 500 feet of another medical marijuana business.

(b) The distances set forth in Subsection (a) above shall be computed by direct measurement in a straight line from the nearest property line of the lot used for the purposes stated in Paragraphs (a)1, (a)2, (a)3 and (a)4, respectively, to the nearest property line of the lot on which the medical marijuana business is located.

(c) The locational criteria contained in Subsection (a) of this Section shall apply to all proposed changes in the location of an existing license.

(d) Any provisions of this Code concerning home occupations notwithstanding, no medical marijuana business shall be located in a residential zoning district. (Ord. 09-11 §1, 2011)

Sec. 16-30-110. Requirements related to the premises.

Medical marijuana businesses shall be subject to the following additional requirements:

(1) All medical marijuana dispensing, production, manufacturing and cultivation activities shall be conducted indoors.

(2) All product storage shall be indoors. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or right of way. All medical marijuana or medical marijuana-infused products ready for sale shall be in a sealed or locked cabinet except when being accessed for distribution.

(3) The business may only be open for the sale, service or distribution of medical marijuana between the hours of 8:00 a.m. and 7:00 p.m., Monday through Sunday.

(4) No marijuana shall be consumed on the licensed premises.

(5) Cultivation of marijuana by the use of any light or lighting system other than a fluorescent light, light-emitting diode ("LED") or fluorescent or LED lighting system is only permitted when the premises are equipped with an automatic fire suppression system that meets the requirements of National Fire Protection Association standard number 13 that is referenced in Section 903.3.1.1 of the 2006 International Building Code. Approval of the automatic fire suppression system by the Fire Chief under the above-referenced standard is required prior to any cultivation process beginning.

(6) The cultivation of marijuana that results in any single marijuana plant of a height greater than twelve (12) inches is only permitted when the premises are equipped with a system that removes the odors of the marijuana being cultivated so that the odor is not detectable from the exterior of the business or from within any adjoining premises. Approval of the odor removal system by the Building Inspector is required prior to any cultivation process beginning. The Building Inspector's determination of the adequacy of any proposed odor-removing system shall be based on his reasonable determination of the ability of the proposed system to remove odors as required by this Paragraph, which determination shall be based upon the manufacturer's or an engineer's design specifications for the system as they relate to the premises in question.

(7) All medical marijuana businesses shall provide adequate security on the premises. At a minimum, the security shall include:

a. Security surveillance cameras installed and properly maintained to monitor each entrance along the interior and exterior of the premises to discourage crime and to facilitate the reporting of criminal acts, as well as nuisance activities; security video shall be preserved in the manner and for the period of time set forth in the Colorado Medical Marijuana Enforcement Division Rules, as amended from time to time;

b. Robbery and burglary alarm systems that are professionally monitored and maintained in good working condition;

c. Exterior lighting that illuminates the exterior walls of the business during evening hours and is compliant with the City Code;

d. A secure safe that is utilized for the purposes of storing cash and medical marijuana that is not then being actively cultivated when the business is not open; and

e. Locking systems for exterior doors that are designed and installed in such fashion as to deter unlawful entry and provide safe emergency egress. (Ord. 09-11 §1, 2011)

Sec. 16-30-120. Signage requirements.

(a) All signage associated with a medical marijuana business shall meet the standards established in this Code for signs.

(b) No signage associated with a medical marijuana dispensary shall use the word "marijuana," "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless

such word, phrase or symbol is immediately preceded or followed by the word "medical" or a word or phrase of substantially the same meaning, and unless such preceding or following word or phrase is set forth in a type size that is at least as large as the type size used for the word "marijuana," "cannabis" or other word, phrase or symbol commonly understood to refer to marijuana. (Ord. 09-11 §1, 2011)

Sec. 16-30-130. Prohibited acts.

(a) It shall be unlawful for any licensee to permit the consumption of alcohol beverages, as defined in the Colorado Liquor Code, on the licensed premises.

(b) It shall be unlawful for any licensee holding a medical marijuana center license, or any agent or employee thereof, to sell, give, dispense or otherwise distribute medical marijuana from any outdoor location.

(c) It shall be unlawful for any optional premises cultivation operation to:

(1) Operate in the City, unless it operates as an optional premises to a medical marijuana center or a medical marijuana-infused products manufacturer located in the City that is under the same ownership as the optional premises cultivation operation; or

(2) Sell, give, dispense or otherwise distribute medical marijuana except to a medical marijuana center or medical marijuana-infused products manufacturer located in the City that is under the same ownership as the optional premises cultivation operation.

(d) It shall be unlawful for any medical marijuana-infused products manufacturer to:

(1) Operate in the City unless its owner also holds a medical marijuana center license in the City; or

(2) Sell, give, dispense or otherwise distribute any of the products that it manufactures except to a medical marijuana center located in the City that is under the same ownership as the medical marijuana-infused product manufacturer.

(e) After issuance of a license, it shall be unlawful for a licensee to make a physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without obtaining the prior written approval of the Authority and the State Licensing Authority. For purposes of this Subsection, physical changes, alterations or modification of the licensed premises, or in the usage of the premises requiring prior written approval, shall include but not be limited to the following:

(1) Any increase or decrease in the size or physical capacity of the licensed premises;

(2) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the cultivation, harvesting of, or sale or distribution of medical marijuana within the licensed premises;

(3) Any enlargement of a cultivation area; and

(4) Any change in the interior of the premises that would affect the basic character of the premises or physical structure that existed in the plan on file as part of the latest prior application. (Ord. 09-11 §1, 2011)

Sec. 16-30-140. Required books and records.

(a) In addition to any requirements under the Colorado Medical Marijuana Code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every optional premises cultivation operation shall maintain an accurate and complete record of all medical marijuana cultivated, all medical marijuana processed into usable form, and all medical marijuana sold, given away, dispensed or otherwise distributed or removed from the licensed premises. Such records shall include:

(1) The total quantity of medical marijuana cultivated and the total usable quantity of medical marijuana produced from time to time, including the date(s) of cultivation and the date(s) on which cultivated medical marijuana was reduced to usable form; and

(2) The date and time at which any medical marijuana was removed from the licensed premises, including the amount of medical marijuana removed, the person who removed it, the location to which the medical marijuana was delivered and the date and time of such delivery.

(b) In addition to any requirements under the Colorado Medical Marijuana Code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every medical marijuana-infused products manufacturer shall maintain an accurate and complete record of all medical marijuana obtained, all medical marijuana processed into infused product form, and all medical marijuana-infused products sold, given away, dispensed or otherwise distributed or removed from the licensed premises. Such records shall include:

(1) A description of each and every medical marijuana-infused product produced from time to time, including the total quantity of medical marijuana used to manufacture the item(s) and the number of individual products manufactured, including the date(s) on which the medical marijuana was obtained and the date(s) on which the medical marijuana was reduced to a particular salable product; and

(2) The date and time at which any medical marijuana-infused product was removed from the licensed premises, including the amount of product removed, the person who removed it, the location to which the medical marijuana-infused product was delivered and the date and time of such delivery.

(c) All events and/or transactions that are to be recorded pursuant to this Section shall be kept in a numerical register in the order in which they occur.

(d) All records required to be kept under this Section must be kept in the English language in a legible manner and must be preserved and made available for inspection by the City for a period of three (3) years after the date of the occurrence and/or transaction. (Ord. 09-11 §1, 2011)

Sec. 16-30-150. Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Chief of Police, the Fire Chief, the Building Official or the authorized representative of any of them, for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the premises consists of a locked area, such area shall be made available for inspection, without delay, upon request. (Ord. 09-11 §1, 2011)

Sec. 16-30-160. Nonrenewal, suspension or revocation of license.

(a) The Authority may suspend, revoke or refuse to renew a license for any of the following reasons:

(1) The applicant or licensee, or his or her agent, manager or employee, have violated, do not meet or have failed to comply with any of the terms, requirements, conditions or provisions of this Article or with any applicable state or local law or regulation;

(2) The applicant or licensee, or his or her agent, manager or employee, have failed to conduct the licensed operations in conformance with the application pursuant to which the license was issued, or have failed to comply with any special terms or conditions of its license pursuant to the order of the State or Local Licensing Authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or

(3) The medical marijuana business has been operated in a manner that adversely affects the public health, safety or welfare.

(b) The Authority shall not suspend or revoke a license until after notice and an opportunity for hearing has been provided to the licensee.

(c) The Authority shall not hold a hearing on a license renewal application unless a complaint has been filed concerning the licensee or there are allegations against the licensee that, if established, would be grounds for suspension, revocation or nonrenewal under Subsection (a) of this Section.

(d) Evidence to support a finding under Paragraph (a)(3) of this Section may include, without limitation, a continuing pattern of disorderly conduct or drug-related criminal conduct within the premises of the marijuana business or in the area immediately surrounding such business, or a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana business. (Ord. 09-11 §1, 2011)

Sec. 16-30-170. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including but not limited to any licensee, manager or employee of a medical marijuana business or any customer of such business, who violates any provision of this

Article shall be guilty of a misdemeanor punishable in accordance with Section 1-4-20 of this Code. (Ord. 09-11 §1, 2011)

Sec. 16-30-180. No City liability; indemnification; no defense.

(a) By accepting a license issued pursuant to this Article, the licensee waives any claim concerning, and releases the City, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers of the licensee for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana business that is the subject of the license.

(c) The issuance of a license pursuant to this Article shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution or use of marijuana. (Ord. 09-11 §1, 2011)

Sec. 16-30-190. Existing medical marijuana businesses.

Any medical marijuana business holding a City license on the effective date of City Council Ordinance 09-11 shall, not less than thirty (30) days before the next annual anniversary thereafter of the date on which the license was issued, make application to the City for a medical marijuana business license pursuant to the provisions of Section 16-30-70 above and, thereafter, may make annual renewal applications pursuant to the provisions of Section 16-30-60 above. (Ord. 09-11 §1, 2011)

Sec. 16-30-200. Fees and deposits.

(a) The pre-application fee for the pre-application conference required by Section 16-30-70 above shall be the nonrefundable sum of \$500.00.

(b) The fee for an initial application for licensure of a medical marijuana business under Section 16-30-70 above shall be the nonrefundable sum of \$1,000.00. In addition to such fee, each applicant shall make a cash deposit with the City in the amount of \$1,500.00, (hereinafter the "cash deposit"), which amount shall be refundable, as further provided below, and shall be used by the City to reimburse the City's direct and indirect costs in processing the application that are not covered by the nonrefundable portion of the fee, including but not limited to outside consultant fees necessary to review the application, such as legal, planning and engineering fees, as well as the costs of document recordation and/or reproduction.

(c) The fee for an application for license renewal under Section 16-30-60 above shall be the nonrefundable sum of \$1,000.00.

(d) The City shall maintain a separate account of the cash deposit and track all monies deposited into and withdrawn from such account throughout the application process. The City shall make monthly statements of account activity available to the applicant.

(e) A cash deposit account shall maintain a minimum balance in an amount not less than \$750.00. The City shall provide written notice to the applicant when the account balance is below such minimum amount, and the applicant shall pay the amount necessary to meet or exceed the minimum balance within ten (10) days of the City's notice. Failure by the applicant to replenish the account within the time specified shall be unlawful and, in addition, shall be cause for the City to cease processing the application, to refrain from scheduling the application for consideration before any City body or person, to deny approval of the application and to withhold the issuance of a license certificate.

(f) Within ninety (90) days after final approval of the application or within ninety (90) days after the date on which the applicant has given written notice that he or she will not proceed with the application, the City will determine the balance owing to the applicant, that amount being the amount deposited over the costs incurred, and return that amount to the applicant's mailing address on file.

(g) For purposes of the administration of the fees and cash deposit under this Section, the City Manager shall, from time to time, determine and create a written schedule of the dollar-per-hour cost to the City in employing employees or engaging consultants who may provide services to the City in connection with the processing, review, inspection and/or decision-making in connection with an application under this Article, and shall use such schedule to determine the City's direct and indirect costs of processing applications under this Article. Such schedule shall add a fifteen percent (15%) administrative cost to the actual cost to the City of each employee or consultant listed therein.

(h) If the City incurs costs beyond the amount deposited with the City and the applicant fails to pay such costs within sixty (60) days after written notice from the City, the City may avail itself of any remedy available at law or in equity to collect such costs. The City may also assess interest on any such amount past due at the rate of eighteen percent (18%) per annum. (Ord. 09-11 §1, 2011)

ARTICLE 31

Group Homes

Sec. 16-31-10. Purpose.

The purpose of this Article is to recognize that group homes serve the function of providing a residential living environment for various members of our diverse society and that the recognition of such homes through this Article and the definitions set forth herein serve to permit their use in various residential zones, while maintaining the quiet enjoyment of all neighborhoods. (Ord. 10-10 §1, 2010)

Sec. 16-31-20. Definitions.

As used in this Article, the following terms shall have the following meanings:

Developmentally disabled means those persons having cerebral palsy, multiple sclerosis, mental retardation, autism, epilepsy or a similar substantial developmental disability.

Group home means, subject to the licensing requirements of the State if applicable, a dwelling where persons are living, together with staff, as a single housekeeping unit providing care, supervision and treatment exclusively for not more than eight (8) persons who are handicapped, developmentally disabled or mentally ill.

Handicapped means, with respect to a person: (1) a physical or mental impairment which substantially limits one (1) or more life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment; but such term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802.

Mentally ill means a person with a substantial disorder of the cognitive, volitional or emotional processes that grossly impairs judgment or the capacity to recognize reality or to control behavior. (Ord. 10-10 §1, 2010)

Sec. 16-31-30. Group homes.

(a) Group homes for the exclusive use of developmentally disabled, handicapped or mentally ill persons may be established in any zone district of the City that permits residential dwellings, subject to all height, setback, area, lot coverage and other zoning requirements of the subject zone district, and subject to the licensing requirements of the State and the registration and reporting procedures and distance limitations described herein.

(b) Prior to the establishment of a group home for the developmentally disabled, mentally ill or handicapped, or, in the case of group homes existing as of June 1, 2010, on or before July 1, 2010, the owner or operator thereof shall register with the City Clerk on a form provided by the City Clerk. Registration shall be effective for a period of twelve (12) months. Prior to the expiration of such twelve-month period, application for registration renewal shall be made. Renewal shall be granted by the City Clerk if the group home continues to be in compliance with the definition of a group home set forth above.

(c) At the time of the initial registration and each renewal thereof, and as a requirement for a full and complete registration, the owner or operator of the group home shall provide to the City Clerk, for public dissemination, a writing that describes the location, purpose, function and mission of the group home, along with a general description of the nature and characteristics of the non-staff member residents of the group home.

(d) In the case of a group home serving persons who are mentally ill, no person residing therein shall have been convicted of a felony involving a violent offense or shall have been determined to be not guilty by reason of insanity to a violent offense. As a means of providing for the enforcement of this Subsection, the owner or operator of a group home serving persons who are mentally ill shall advise the Chief of Police as to the identity, including the name, date of birth and social security

number, of each resident of the group home within one (1) business day of the initial residency of each resident.

(e) No group home shall be located within seven hundred fifty (750) feet, as measured on the shortest straight line from property line to property line, of any other group home within or outside of the City.

(f) It shall be unlawful to operate a group home without first having registered as required herein. It shall be unlawful to operate a group home with an expired registration. It shall be unlawful to operate a group home for the mentally ill without providing identity information in the form and at the time required by Subsection (d) above. It shall be unlawful to operate a group home within seven hundred fifty (750) feet of any other group home within or outside of the City. (Ord. 10-10 §1, 2010)