CHAPTER 16:
LAND DEVELOPMENT CODE

Article 1. Title, Purposes, Authority, Applicability, Jurisdiction, Transition, Interpretation, and Severability

Division 1-1. Title, Purposes, Authority, Applicability, and Jurisdiction

Sec. 16-1-100. Title; Short Title
This Chapter, along with the official zoning map established in Sec. 16-3-102. Official Zoning Map, shall be known as the City of Central Land Development Code. This Chapter may be referred to herein as the “LDC.”

Sec. 16-1-101. Purposes
(a) General Purposes. The purpose and intent of this LDC is to promote the health, safety, convenience, order, prosperity, and general welfare of the present and future inhabitants of Central City, Colorado, by using the City’s home rule, constitutional, and statutory powers to:

(1) Implement the City’s adopted Comprehensive Plan and other adopted plans, which plans:

A. Reflect the shared values of the City’s residents with respect to the character, form, and function of future development; and

B. Promote planned, logical, fiscally and environmentally responsible, and orderly development and redevelopment within the City and other areas that may be subject to the City’s regulatory authority;

(2) Implement Article XIV of the Home Rule Charter for the City of Central, Colorado (“CITY CHARTER”), and protect integrity of historic resources, by:

A. Promoting private investment in appropriate renovation, rehabilitation, restoration, and adaptive re-use of historic buildings;

B. Promoting new development, infill development, and where appropriate, redevelopment, at an appropriate scale and character; and

(3) Promote economic and cultural opportunity and diversify the City’s economic base;

(4) Provide for a variety of housing opportunities for a diverse population;
(5) Provide for sufficient, efficient, fiscally sustainable, and cost-effective transportation, water, sanitary sewer, school, park, stormwater conveyance and treatment, and other public and private facilities and services;

(6) Promote public safety by securing safety from fire, flood, and other dangers through appropriate site design and adequate infrastructure and emergency services, in coordination with independent providers of public services (e.g., fire protection, water, sewer, schools, recreation, and drainage);

(7) Promote appropriate stewardship of natural resources, including water resources;

(8) Provide for efficient and fair development approval procedures that respect private property rights and promote appropriate development; and

(9) Promote the efficient and responsible use of public and private resources towards the accomplishment of the purposes set out herein.

(b) Purposes of Regulation of Sexually-Oriented Businesses.

(1) The City Council finds that:
A. Sexually-oriented businesses cause adverse secondary effects, which are recognized by the U.S. Supreme Court (in cases such as Young v. American Mini Theatres, 426 U.S. 50 (1976), City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990)) and the 10th Circuit Court of Appeals (in cases such as Doctor John's v. G. Blake Wahlen, 542 F.3d 787 (10th Cir. 2008)) as impacting substantial governmental interests in health, safety, and welfare.

B. In City of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000), the U.S. Supreme Court held that a “city need not ‘conduct new studies or produce evidence independent of that already generated by other cities’ to demonstrate the problem of secondary effects, ‘so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses.”


D. The negative secondary impacts of sexually-oriented businesses have been studied in other communities. These communities include, but are not limited, to Adams County, Colorado; Dallas, Texas; Denver, Colorado;
Ellicottville, New York; Garden Grove, California; Houston, Texas; Indianapolis, Indiana; Islip, New York; Las Vegas, Nevada; Los Angeles, California; Louisville, Kentucky; New York, New York; Oklahoma City, Oklahoma; Phoenix, Arizona; Rome City, Georgia; St. Paul, Minnesota; Tucson, Arizona; and Whittier, California.

E. The American Center for Law and Justice also completed a study on the secondary effects of such uses, dated March 1996.

F. Secondary effects of sexually-oriented businesses may include any or all of the following material effects on the health, safety, and welfare of City residents:

i. Particularly when they are located in close proximity to each other, sexually-oriented businesses are frequently an indicia of urban blight, or a factor that downgrades the quality of life in the adjacent area;

ii. Sexually-oriented businesses tend to have a deleterious effect on both neighboring businesses and surrounding residential areas, as they are regularly correlated to an increase in crime and a decrease in property values;

iii. Sexually-oriented businesses commonly require special supervision from public safety agencies in order to protect public health, safety and welfare, including that of the patrons of such businesses;

iv. Studies and experience show that in the absence of regulation of sexually-oriented businesses, significant criminal activity, including prostitution, narcotics, and liquor law violations, have historically and regularly occurred within (and within the immediate vicinity of) such businesses;

v. Sexually-oriented businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature, and the concern over sexually transmitted diseases, including HIV, is a legitimate health concern of the City;

vi. Sexually-oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often not controlled by the operators of the establishments; and

vii. Children and minors may be harmed by exposure to the secondary effects of sexually-oriented businesses.

G. The City wishes to minimize and control adverse effects and thereby protect the health, safety and welfare of its residents; preserve the quality of life; preserve the property values and character of surrounding neighborhoods;
deter the spread of urban blight; and protect residents and property owners from increased crime.

(2) It is not the intent of this LDC to suppress any speech protected by the First Amendment, but to enact reasonable, content-neutral regulations that address the secondary effects of sexually-oriented businesses. To this end, the regulations in this LDC that apply specifically to sexually-oriented businesses impose restrictions which are no greater than necessary to further the City’s substantial interest in preventing adverse secondary effects attributable to such businesses.

(3) The sexually-oriented business regulations in this LDC are intended to implement the following purposes:

A. The purpose of the regulations in this LDC that apply specifically to sexually-oriented businesses is to set reasonable and uniform regulations to prevent such businesses from locating in areas in which they will tend to have increased deleterious secondary effects, and to ensure that site and design techniques are used to minimize the secondary effects; for example, by limiting views into areas of a building in which the business is operated.

B. The regulations have neither the purpose nor the effect of imposing an unconstitutional limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of the regulations to restrict or deny access by adults to those sexually-oriented materials that are protected by the First Amendment.

C. This LDC shall not be interpreted to condone or legitimize the distribution of obscene material or other comparable material that is not protected by the First Amendment.

(c) **Purpose of Wireless Communications Facilities Regulations.** The purposes of the Wireless Communications Facilities (“WCF”) regulations are:

(1) To provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the City with the fewest number of WCFs, in order to complete networks without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs.

(2) To protect the integrity of the City’s historic resources by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to camouflage/concealment design techniques, building attachments, and undergrounding of WCFs and associated equipment; and through the use of smaller, less intrusive WCFs to supplement existing larger WCFs, and collocation of WCFs on new and existing sites.
(3) To enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently.

(d) Other Specific Purposes. Other specific purposes of the various provisions of this LDC may be expressed therein.

Sec. 16-1-102. Authority

(a) Generally. The provisions of this LDC are authorized as provided in this Section. The City may be authorized or required to act in additional areas from time to time. This Section is not intended in any way to limit the City’s authority or legal ability to accept and apply such additional authorizations or requirements.

(b) City Charter. Primary authority for all provisions herein that affect the area within the corporate boundaries of Central City and are neither matters of statewide concern nor preempted by federal law is created by the City Charter. This authority is granted to the City by Article XX, Section 6 (Home Rule for Cities and Towns) of the Colorado Constitution.

(c) Colorado Revised Statutes. Secondary or supplemental authority for the provisions of this LDC is provided by the Colorado Revised Statutes, if they are not inconsistent with the provisions herein, or if they are preemptive of charter ordinances. The following provisions of the Colorado Revised Statutes may be referenced by the City as secondary or supplemental authority for certain provisions of this LDC:

(1) Regulate zoning, planning, subdivision, and development of land and building by C.R.S. Title 31, Article 23;

(2) Designate and administer areas and activities of state interest by C.R.S. §§ 24-65.1-101 to 108, 201 to 204, 301, 401 to 407, 501 to 502 and 34-1-301 et seq., as amended;

(3) Regulate planned unit development by C.R.S. § 24-67-101 et seq.;

(4) Regulate certain activities on, and uses of land by C.R.S. § 29-20-101 et seq., as amended;

(5) Regulate to avoid various types of pollution by virtue of C.R.S. § 25-7-112 (water pollution, radiation, noise);

(6) Regulate annexation of land by C.R.S. § 31-12-101 et seq., as amended;

(7) Regulate medical marijuana uses by C.R.S. Title 12, Article 43.3;

(8) Regulate recreation marijuana uses by C.R.S. Title 12, Article 43.4;

(9) Recognize the vesting of property rights for site-specific development orders according to C.R.S. § 24-68-101, et. seq.; and

(10) Regulate surveying practices according to C.R.S. § 38-51-101, et seq.

(d) United States Code. Some of the regulations in this LDC are authorized or required by federal law, which may include programs that are delegated to the State of Colorado for administration. Such regulations may include, but shall not be limited to:
Sec. 16-1-103. Policy Regarding Marijuana Uses and Marijuana Cultivation

(a) Findings. The City Council finds that:

(1) Marijuana is a controlled substance under federal law, and possession of marijuana is prohibited by federal law.

(2) The voters of the State of Colorado have approved a constitutional amendment to the State Constitution to allow for persons with “debilitating medical conditions” to use medical marijuana. The will of the voters is reflected in Article XVIII, Section 14 of the Colorado Constitution. That Section of the Colorado Constitution is further implemented and further regulated by C.R.S. § 12-43.3-101, et seq.

(3) The voters of the State of Colorado have approved a constitutional amendment to the State Constitution to legalize, under state law, the personal use of marijuana by persons over the age of 21. However, part of the amendment, reflected in Article XVIII, Section 16(5)(f) of the Colorado Constitution, provides, “A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance . . . .”

(4) The United States Constitution, in Article VI, Debts, Supremacy, Oaths, provides in part, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution . . . .”

(6) The United States Department of Justice ("U.S. DOJ") issued a memorandum on October 19, 2009 regarding U.S. DOJ policy on enforcement of the Federal Controlled Substances Act in states that allow medical marijuana under state law. In that memorandum, Deputy Attorney General David Ogden writes, in pertinent part:

A. "Of course, no State can authorize violations of federal law . . . . Accordingly, in prosecutions under the Controlled Substances Act, federal prosecutors are not expected to charge, prove, or otherwise establish any state law violations."

B. "This guidance regarding resource allocation does not 'legalize' marijuana or provide a legal defense to a violation of federal law, nor is it intended to create any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, party, or witness in any administrative, civil, or criminal matter."

C. "Nor does clear and unambiguous compliance with state law . . . create a legal defense to a violation of the Controlled Substances Act."

(7) In response to the reallocation of investigative and prosecutorial resources of the U.S. DOJ, marijuana uses have proliferated in Colorado.

(8) On February 23, 2017 a White House official signaled that there will be "greater enforcement" of federal laws against marijuana use, particularly in the area of recreational marijuana; however, as of the effective date, neither the White House nor the U.S. DOJ has articulated a substantive change in marijuana policy.

(b) Inherent Risks. Marijuana, medical and otherwise, is a controlled substance under federal law. Therefore, applicants, investors, employees, and others associated with the marijuana uses know or should know that, among other things:

(1) If the U.S. DOJ chooses a different allocation of its investigative and prosecutorial resources (towards "greater enforcement"):

A. The federal government may be more likely to prosecute those individuals who are found in violation of the Controlled Substances Act and any other applicable federal criminal laws; and

B. Owners of marijuana uses and other persons who cultivate, store, or possess marijuana may be subject to penalties under federal law, including incarceration, fines, and forfeitures, including forfeiture of the building in which the use is located and the contents thereof.

(2) Insurance companies could deny coverage, including (among other things) coverage for casualty losses or personal injuries, based on violations of the Controlled Substances Act.

(3) Lenders could, at any time, determine that the use is unlawful and exercise any rights they may have under the terms of the loan, which in some cases may include a demand for immediate repayment of the entire loan balance.
(c) **No Right to Continued Use; No Vested Rights; No Compensable Rights.**

(1) Based on the current U.S. DOJ policy and the state of Colorado law, this LDC allows certain marijuana uses and accessory uses according to the regulatory program created by Colorado law. However, for so long as marijuana (medical and otherwise) remains a controlled substance under federal law, no approval pursuant to this LDC shall be construed to create any enforceable or compensable property right to the establishment or continuation of a marijuana use under any circumstances.

(2) No approval by the City shall be construed to introduce liability to the City for any consequential harm to the applicant or those associated with a proposed marijuana use or accessory use, including but not limited to business owners, investors, employees, land owners, insurance companies, lenders, caregivers, patients, or customers.

(d) **Certain Marijuana Land Uses Prohibited.** The City exercises its right pursuant to Article XVIII, Section 16(5)(f) of the Colorado Constitution and prohibits the operation of certain marijuana uses as provided in this LDC.

**Sec. 16-1-104. Applicability**

(a) **Generally.** No land shall be developed except in accordance with the applicable provisions of this LDC. All of the following are considered “development” that is subject to the applicable requirements of this LDC:

(1) The use of any building, structure, or land (including new uses, changes in use, expansions of existing uses, material changes to the operational characteristics of existing limited or conditional uses, and material changes to the operational characteristics of existing special uses approved prior to the effective date).

(2) Construction, material alteration, repair, relocation, or demolition of infrastructure, structures (including but not limited to fences, retaining walls, signs, and towers), or buildings.

(3) Alterations or demolitions of historic buildings, structures, or landmarks.

(4) Land clearing in anticipation of the construction of infrastructure, structures, or buildings for non-agricultural purposes.

(5) Any other disturbance of land, soil, vegetation, or waterways, including excavation, fill, or other alteration of land for construction or other purposes, but not including routine landscape maintenance or irrigation ditch maintenance.

(6) Any division of land for land development, for sale or for lease, whether by metes and bounds, subdivision, or other technique.

(b) **Applicability to Publicly Owned Property.**

(1) The provisions of this LDC are not applicable to land owned, used, or developed by the City.
(2) The provisions of this LDC are applicable to all other public agencies, governmental entities, and special districts to the full extent that they may be enforceable under the United States Constitution and the Constitution and Statutes of the State of Colorado.

(c) **Relationship to Covenants, Conditions, and Restrictions.**

(1) This LDC does not change private restrictions that affect the use, development, or maintenance of property. This LDC will be enforced on property that is subject to private restrictions as provided in this Section.

(2) The City has no duty to search for the existence of private restrictions on property.

(3) The City will not interpret, enforce, or apply private restrictions unless it is a party to them.

**Sec. 16-1-105. Jurisdiction**

This Chapter shall apply to:

(a) All land located within the legal boundaries of the City; and

(b) All land that is subject to an intergovernmental agreement (“IGA”) that provides for the application of this Chapter; and

(c) Except as otherwise provided by IGA, and limited only to control with reference to a major street plan and not otherwise, all land lying within three miles of the City limits and not located within any other municipality; except that, in the case of any of such non-municipal land lying within five miles of the City and another municipality, the jurisdiction of the City shall terminate at a boundary line equidistant from the respective corporate limits of the City and the other municipality.

(d) All land for which an annexation petition has been filed.

**Division 1-2. Transition, Interpretation, and Severability**

**Sec. 16-1-200. Effect on Pending Applications**

(a) **Generally.** An application for approval of a site specific development plan, as well as the approval, conditional approval, or denial of approval of such plan, shall be governed only by the duly adopted laws and regulations in effect at the time the complete application is submitted. See C.R.S. § 24-68-102.5, Applications - Approval by Local Government.

(b) **Immediate Public Health and Safety Exception.** The City may adopt a new or amended ordinance or regulation, when necessary, for the immediate preservation of public health and safety, and may enforce such ordinance or regulation in relation to applications that are pending at the time such ordinance or regulation is adopted. See C.R.S. § 24-68-102.5, Applications - Approval by Local Government.
(c) **Waiver by Applicant.** An applicant who has a pending application on the effective date may, by written notice to the City, waive the right to proceed under the duly adopted laws and regulations in effect at the time the complete application is submitted, and instead to proceed under the standards and procedures set out in this LDC.

**Sec. 16-1-201. Effect on Approvals and Permits that Pre-Date the Effective Date**

(a) **Generally.** Approved development may be carried out within the scope of the applicable development approval or permit, provided that the approval is valid and has not lapsed. Where development approvals or other approvals authorize the issuance of a permit, the permit must be requested before the approval has lapsed, and such permit shall thereafter extend the duration of the related approval for the duration of the permit. Work that is authorized by permits must be commenced before the permit has lapsed, and then diligently pursued to completion.

(b) **Duration of Development Approvals.** Development approvals and permits that are current on the effective date shall remain current until the earlier of:

1. Their stated expiration date, which may be on the face of the permit or development approval, or within related documents such as development agreements or regulations that were effective on the date of the approval; or

2. The end of the applicable period that is set out in Table 16-1-201, *Expiration of Approvals and Permits that Pre-Date the Effective Date*.

<table>
<thead>
<tr>
<th>Approval or Permit Type</th>
<th>Duration of Approval(^1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permits and Approvals Related to Site Design(^2)</td>
<td></td>
</tr>
<tr>
<td>Site Plan</td>
<td>One year from date of approval</td>
</tr>
<tr>
<td>Preliminary Development Plan</td>
<td>One year from date of approval</td>
</tr>
<tr>
<td>Final Development Plan</td>
<td>Three years from date of approval</td>
</tr>
<tr>
<td>Site Specific Development Plans</td>
<td>Three years from the date of approval</td>
</tr>
<tr>
<td>Permits and Approvals Related to Buildings and Structures</td>
<td></td>
</tr>
<tr>
<td>Certificate of Appropriateness</td>
<td>One year from date of approval</td>
</tr>
<tr>
<td>Variance</td>
<td>One year from date of approval</td>
</tr>
<tr>
<td>Permits and Approvals Related to Land Use</td>
<td></td>
</tr>
<tr>
<td>Use Permit</td>
<td>One year from date of issuance</td>
</tr>
<tr>
<td>Special Review Use Permit</td>
<td>One year from date of issuance</td>
</tr>
</tbody>
</table>

**TABLE NOTES:**
1. If not otherwise specified as provided in subsection (b)(1), above.
2. Expiration of these permits also causes expiration of related construction permits, including but not limited to, building permits, stormwater quality permits, and excavation permits.

(c) **No Expansion of Scope of Approvals.** This Section shall not be interpreted to confer rights upon an applicant that are not set out within the scope of a development approval or permit. For example, if building design or landscaping standards are adopted after a plat is
approved but before any other application is filed, then such standards may be applied within the area of the plat because they are outside of the scope of the plat approval.

(d) *Conditions of Prior Approvals or Permits.* All conditions of development approvals or permits that were granted or issued prior to the effective date remain in force according to their own terms, regardless of the standards or requirements of this LDC. Conditions of approval may be modified or eliminated pursuant to Section 16-8-316, *Modification of Approvals.*

(e) *Approvals Without Expiration Dates.* Approvals and permits that do not have expiration dates according to this Section, and do not expire pursuant to Table 16-1-201 (e.g., rezonings and final plats), do not lapse.

(f) *Effect of Termination of Approval.* Approvals that terminate pursuant to this Section become void on the date of termination, and no further development approvals or permits may be issued in reliance upon them. No application for an extension or modification of an approval or permit will be accepted after termination of the approval or permit for which extension or modification is sought.

**Sec. 16-1-202. Effect on Development, Annexation, and Improvement Agreements**

This LDC does not affect existing development agreements, improvement agreements, or annexation agreements, except as may be provided therein or by applicable state or federal law.

**Sec. 16-1-203. Effect on Existing Violations**

(a) *Generally.* Any violations of Central City ordinances that existed before the effective date, but that were repealed and replaced upon adoption of this LDC shall be treated as follows:

(1) If a violation occurred prior to the effective date and continued past the effective date, then the City may pursue remedies for each day of violation, based on the code sections that were in effect on each day that the violation occurred.

(2) If a violation occurred prior to the effective date, but the same activity is no longer a violation after the effective date, then the City may pursue remedies for each day of the violation, based on the code sections that were in effect on each day prior to the effective date during which the violation occurred.

(b) *No Waiver of Fines or Penalties.* Payment of fines shall be required for any civil penalty that was imposed for a violation of code provisions prior to the effective date, even if the original violation is no longer considered a violation under this LDC.

**Sec. 16-1-204. Interpretation**

(a) *Generally.* As this LDC affects constitutionally protected rights, it has been written with an understanding of, and subject to, these rights, which are articulated in the Constitutions of the United States and the State of Colorado and interpreted by federal and state courts with jurisdiction in and over Central City.

(b) *Relationship to Policy and Land Use Plans.* It is the City Council's intent that this LDC provide for implementation over time of the policies that are set out in the Comprehensive Plan, as
well as any specific area, transportation, or facility plans that may be adopted prior or subsequent to the adoption of this LDC. However, neither this LDC nor any amendments thereto may be challenged on the basis of any alleged inconsistency or nonconformity with any planning document.

(c) **Permits Issued in Conflict with LDC.** Any permit issued in conflict with the provisions of this LDC shall be null and void and shall not be construed as waiving any provision of this LDC, unless such waiver is expressly authorized by variance, certificate of appropriateness, or other comparable procedure set out herein. No oversight or dereliction of any office or employee of the City shall legalize, authorize, or excuse any violation of any provision of this LDC. No legal, vested, or equitable rights shall be acquired under any invalid zoning or building permit, certificate of occupancy, or license.

(d) **Basic Requirements.** The provisions of this LDC shall be regarded as the basic requirements for the protection of public health, safety, comfort, convenience, prosperity, and welfare. This LDC shall be liberally interpreted in order to further its underlying purposes, in particular those purposes that relate to protection of the City’s historic character.

**Sec. 16-1-205. Severability**

If any Article, Division, Section, subsection, paragraph, clause, provision, or portion of this LDC is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this LDC shall not be affected, and shall continue in full force and effect unless and until the City Council acts to amend or repeal the LDC or part thereof. If any application of this LDC to a particular building, use, structure, improvement, land, or water is adjudicated as unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other building, use, structure, improvement, land, or water that is not specifically included in said judgment.

**Article 2. Historic Preservation**

**Division 2-1. Findings, Purpose, Intent, Application, Limitations, and Modification of LDC Standards**

**Sec. 16-2-100. Findings, Purpose, and Intent**

(a) **Findings.** The City Council finds that the economic, cultural, and aesthetic standing of the City depends upon the integrity of the historical, architectural, and geographical heritage of the City, and that the City’s heritage is a significant asset.

(b) **Purpose.** The purpose of this Article is to:

(1) Recognize the boundaries of the National Historic District as they exist within the City, as the boundaries of the City may be adjusted from time to time through annexation. The Historic District’s boundaries may be amended by the City Council
pursuant recommendation provided under Section 16-11-40 below or as otherwise provided under this LDC;

(2) Designate, preserve, protect, enhance, and perpetuate the Historic District and those structures which reflect outstanding elements of the City's cultural, artistic, social, economic, political, architectural, historic, or other heritage, and promote education and awareness regarding same;

(3) Foster civic pride in the beauty, value, innovations, and accomplishments of the past;

(4) Stabilize or improve the aesthetic and economic vitality and value of historic buildings and structures;

(5) Protect and enhance the City's attractiveness to residents, investors, tourists, and visitors;

(6) Promote creative and effective urban design that reinforces, supports, or highlights historic context;

(7) Promote and encourage private ownership and utilization of buildings and other structures to promote the purposes listed herein; and

(8) Allocate historic preservation responsibilities among the Historic Preservation Officer (“HPO”), Historic Preservation Commission (“HPC”), and City Council.

(c) This Article is intended to provide a means to implement the City's historic preservation goals.

Sec. 16-2-101. Application of Article; Limitations

(a) The provisions of this Article are applied to all property within the historic district (including property annexed into the City after the effective date if the property was within the national historic district boundary before annexation) and to all designated landmarks, whether within the historic district or outside the historic district. This Article applies in addition to the other provisions of this Chapter.

(b) The HPC shall not design or assist in the design of any project submitted for review. Creative approaches to preservation and innovation in preservation and restoration methods are encouraged. It is not the intent of this Article to stifle or restrict individual expression within the historic context.

(c) In an effort to improve the quality of a design and maintain and enhance the historic integrity of existing structures, the HPC shall consider the cost of the project, but considerations of cost shall not override the objectives of this Article.

Sec. 16-2-102. Modification of Other Standards

(a) Generally. The HPC may approve a Certificate of Appropriateness (“COA”) that authorizes modifications to the standards of the other Articles of this Chapter as to the Subject Property if the HPC determines that the strict application of the other Articles will reduce
the aesthetic or historical value of an existing historic building or structure compared to the application of modified standards.

(b) \textit{Limitations.} The HPC’s authority under this Article may not be used to authorize land uses that are otherwise prohibited in the zoning district in which the Subject Property is situated. However, it may be used to modify use-specific standards that apply to limited uses.

\section*{Division 2-2. Historic District, Designation Criteria}

\section*{Sec. 16-2-200. Historic District}

The Historic District that is described and depicted in \textbf{APPENDIX A, HISTORIC DISTRICT BOUNDARIES}, is continued as the Historic District. Appendix A is incorporated by reference.

\section*{Sec. 16-2-201. Criteria for Designation of District Boundaries and Landmarks}

(a) \textit{Criteria for Designation of Historic District.} An historic district may be designated (or expanded) if the City Council finds that the district (or expansion area):

\begin{itemize}
  \item[(1)] Is identified with historic persons or events;
  \item[(2)] Embodies distinguishing characteristics of architectural style;
  \item[(3)] Is representative of the work of a famous architect or builder; or
  \item[(4)] Reflects the broad cultural, political, economic, or social history of the community, State of Colorado, or the United States.
\end{itemize}

(b) \textit{Criteria for Designation of Historic Landmarks.} An historic landmark may be designated if the City Council finds that the proposed historic landmark:

\begin{itemize}
  \item[(1)] Meets at least one of the criteria set out in subsection (a)(1) through (a)(4), inclusive; and
  \item[(2)] Is of outstanding historic or architectural significance.
\end{itemize}

\section*{Division 2-3. Certificate of Appropriateness}

\section*{Sec. 16-2-300. Certificate of Appropriateness}

(a) \textit{When Required.} A Certificate of Appropriateness ("COA") is required prior to the issuance of building permits for the erection of a new building, structure, or addition located in an historic district, or the movement, reconstruction, restoration, or alteration of an existing building located in an historic district or an historic landmark in any location. The COA is issued by the HPC or the HPO, as provided in Section 16-8-102, \textit{Historic Preservation Officer}, and Section 16-8-104, \textit{Historic Preservation Commission}.

(b) \textit{Exceptions.} Exceptions which shall not require a COA are:
(1) Repainting of a structure with the same colors for which the HPC has previously issued a COA;
(2) Repairs of a minor nature that do not affect the exterior appearance;
(3) Routine maintenance;
(4) Interior work, except modification or removal of any part of a party wall; or
(5) Pruning or removing dead landscape materials.

(c) Standards. The HPC or HPO, as appropriate, shall apply the CENTRAL CITY DESIGN GUIDELINES to determine whether an application for COA should be granted, granted with conditions, or denied. The review shall place an emphasis on the following:
(1) The impact of the work proposed in the application for COA on the historic and architectural character that provides context to the Subject Property;
(2) How, and to what extent, existing historic and architectural features are maintained and enhanced; and
(3) How the proposed changes relate to adjacent buildings and areas within the City.

(d) Interpretive Product.
(1) If the Subject Property of a COA application is nonresidential and identified as a contributing structure in the National Historic Landmark District Cultural Resource Re-Survey dated September 1998, then:
   A. Where the proposed scope of work results in more than a 40 percent restoration or modification of the exterior of a contributing structure, the application for COA shall include plans and a schedule for completion of an "interpretive product," that identifies the historic significance of the contributing structure. Such "interpretive product" may include, but shall not be limited to:
      i. a sign;
      ii. a brochure; or
      iii. a museum exhibit.
   B. The interpretive product shall be paid for by the applicant or owner of the contributing structure, and must meet interpretive standards as specifically designated by City Council resolution.
   C. In the event the nonresidential use spans several contributing structures, the applicant shall be required to provide an interpretive product for each such structure.
   D. In the event that the City has an adopted plan or guideline for interpretive products, the interpretive product shall follow an appropriate design theme that is identified in the plan or guideline.
E. All plans and schedules will be reviewed and considered by the HPC in conjunction with its review of an application for COA.

(2) The requirements of subsection (d)(1) do not apply to:

A. Any contributing structure for which an interpretive product has previously been provided.

B. Work that does not require a COA.

C. Administrative approvals of paint colors or roofing materials.

Sec. 16-2-301. Certificate of Appropriateness for Demolition

(a) When Required. A Certificate of Appropriateness ("COA") is required prior to the issuance of demolition permits for the demolition or partial demolition of a building or structure located in an historic district, or an historic landmark in any location. The COA is issued by the HPC or the HPO, as provided in Section 16-8-102, Historic Preservation Officer, and Section 16-8-104, Historic Preservation Commission.

(b) Exceptions. The HPO may waive the requirement for the COA if the HPO determines that the building or structure poses an imminent threat to public health or safety, and demolition or partial demolition is the optimal way to mitigate the imminent threat.

(c) Standards. The HPC shall make a determination supported by written findings whether one or more criteria of this Section are met. If the HPC determines that one or more of these criteria are met, a COA for demolition shall be denied:

(1) The structure is of interest or quality that would reasonably meet national, state or local criteria for designation as an historic landmark;

(2) The structure is an integral part of an historic district and would detract from that district by its removal; and

(3) The structure is of unusual or uncommon design, texture or materials that could not be reproduced, or be reproduced only with unreasonable difficulty and expense.

Article 3. Zones, Uses, and Development Yield

Division 3-1. Establishment of Zones

Sec. 16-3-100. Purpose of Zones

The zones that are established by this Article are intended to:

(a) Encourage new development, adaptive re-use, restoration, rehabilitation, and (in appropriate contexts) redevelopment that are consistent with the City’s Comprehensive Plan;
(b) Promote a range of economic opportunities that support long-term preservation and maintenance of historic buildings and structures;

(c) Respect and reinforce the fabric of the City’s historic neighborhoods;

(d) Promote development that has architectural character, scale, and quality that are compatible with the surrounding context;

(e) Provide opportunities for commercial and mixed-use development to serve City and regional residents;

(f) Provide opportunities for development of uses that create primary employment; and

(g) Respond to constraints that are inherent in the landscape, including topography, natural hazards, and man-made hazards.

Sec. 16-3-101. Establishment of Zones

In order to implement the purposes and provisions of this Chapter, the City hereby establishes the zones that are set out in Table 16-3-101, Zones. The acronym used to refer to the zone, as well as the general purposes of each zone, are also set out in the Table.

<table>
<thead>
<tr>
<th>Zone</th>
<th>Acronym</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resource</td>
<td>RCE</td>
<td>The Resource Zone is established to accommodate very low density residential, agriculture, forestry, mineral extraction, a variety of outdoor recreation uses, and other uses that relate to the region’s natural resources.</td>
</tr>
<tr>
<td>Low-Density Residential</td>
<td>LDR</td>
<td>The Low-Density Residential Zone is established to accommodate predominantly single-family detached residential neighborhoods of a mountain estate density and character.</td>
</tr>
<tr>
<td>Medium-Density Residential</td>
<td>MDR</td>
<td>The Medium-Density Residential Zone is established to accommodate denser residential neighborhoods with urban character, as originally platted and developed in the City. This zone allows a more diverse mix of housing types than the LDR zone.</td>
</tr>
<tr>
<td>High-Density Residential</td>
<td>HDR</td>
<td>The High-Density Residential Zone is established to accommodate a wide range of housing types (including multifamily developments) in a dense arrangement.</td>
</tr>
<tr>
<td>Historic Downtown Gaming</td>
<td>HDG</td>
<td>The Historic Downtown Gaming Zone is established to accommodate limited stakes gaming establishments and an array of compatible commercial uses within existing buildings and limited new construction. This zone reflects the historically dense form of development in the City’s commercial core.</td>
</tr>
<tr>
<td>Gregory Gulch Gaming</td>
<td>GGG</td>
<td>The Gregory Gulch Gaming Zone is established to accommodate limited stakes gaming establishments and an array of compatible commercial uses within new construction and limited existing buildings. This zone reflects the historically and architecturally diverse character of the Gregory Gulch neighborhood.</td>
</tr>
<tr>
<td>Transitional</td>
<td>TSL</td>
<td>The Transitional Zone is a mixed-use zone that is established to accommodate a limited range of residential and low intensity commercial uses deemed to be generally compatible, offering a transition between more intense zones (like GGG) and MDR or LDR zones.</td>
</tr>
<tr>
<td>Limited Community Commercial</td>
<td>LCC</td>
<td>The Limited Community Commercial Zone is a mixed-use zone that is established to provide for an integrated mix of relatively low-scale residential, educational, cultural, health care, public service, and commercial uses.</td>
</tr>
<tr>
<td>General Purpose Commercial</td>
<td>GPC</td>
<td>The General Purpose Commercial Zone is established to accommodate a wide range of commercial uses, including uses that may have a regional scale.</td>
</tr>
<tr>
<td>Industrial</td>
<td>IND</td>
<td>The Industrial Zone is established to allow for a range of industrial, resource extraction and processing, recycling, and primary employment uses, as well as other uses that tend to have material external impacts.</td>
</tr>
</tbody>
</table>
Sec. 16-3-102. Official Zoning Map

(a) Generally. The locations of the various zones are depicted on the map entitled “Official Zoning Map of Central City” (referred to hereinafter as “ZONING MAP”). The Zoning Map is incorporated into and made part of this LDC.

(b) Maintenance of Zoning Map. The Zoning Map is maintained by the Administrator. The Administrator shall promptly update the Zoning Map after a rezoning ordinance is adopted.

(c) Status of Zoning Map. The Zoning Map that is on file with the Administrator shall control in the event of a conflict between said map and any other reproduction of the Zoning Map, including but not limited to, maps that are made available electronically.

Sec. 16-3-103. Interpretation of Zoning Map

(a) Generally. The precise location of any zone boundary line shown on the Zoning Map shall be identified using the rules set out in this Section. It is the intent of the City Council that all land within Central City be located within a zone. In the event that land within the City exists for which no zone can be identified (even after the application of the standards in this Section), no permits for development or use of said land shall be issued until the City Council adopts an initial zoning ordinance for the land. Such action shall be taken at the City Council’s first available regular meeting after the City discovers that the land is not zoned.

(b) Conflicts Between Zoning Map and Adopted Rezoning Ordinance, After Effective Date of LDC. Conflicts between the zone boundaries on the Zoning Map and the zoning for land that is set out in an adopted rezoning ordinance dated after the effective date of this LDC could result from administrative or scrivener’s errors. In the event of such conflict:

1. It is presumed that the adopted rezoning ordinance controls, and the Zoning Map shall be promptly corrected when the conflict is identified. In such a case, the Administrator shall provide written notice of the correction to the owners of property that is the subject of a zoning map correction.

2. The presumption may be rebutted if it is obvious that the error is within the text of the rezoning ordinance, in that:

   A. The rezoning affects property that was not the subject of the application for rezoning; or

   B. The rezoning affects only a portion of the property that was the subject of the application, the application requested rezoning for the entire property, and the application was granted without conditions that restricted the extent of the rezoning; or

   C. The legal description of the land in the rezoning ordinance does not close, but the description of the land that was intended to be the subject of the rezoning ordinance is otherwise obvious.
(c) **Conflict Between Zoning Map and Adopted Rezoning Ordinance, Before Effective Date of LDC.** Any conflict between the boundaries on the Zoning Map and a rezoning ordinance that was adopted before the effective date of this LDC shall be resolved as follows:

1. If the Zoning Map conflicts with a rezoning ordinance adopted before the effective date, the Zoning Map boundaries control. However, if the rezoning ordinance was tied to a site specific development plan, then the Zoning Map designation shall not interfere with any vested rights created by the site specific development plan.

2. If the Zoning Map conflicts with an active planned unit development (“PUD”) ordinance that was adopted before the effective date, the PUD ordinance controls, unless there is record evidence to show that the Zoning Map was intended to adjust the boundaries of the PUD.

3. If the Zoning Map conflicts with an inactive PUD ordinance, or with the boundary of a completed PUD, then the Zoning Map controls.

4. If the Zoning Map conflicts with a development or annexation agreement, then the conflict shall be resolved according to the terms of the agreement.

(d) **Identifiable Features.** In the absence of a rezoning ordinance that specifies parcel boundaries, where zoning district boundary lines appear to follow identifiable features, their location shall be determined by applying the rules of this subsection in order from (1) to (5):

1. **RIGHTS-OF-WAY.** Boundary lines shown as following, or approximately following, streets, alleys, railroad tracks, or utility lines shall be construed as following the centerline of the right-of-way. Where the location of the actual streets or alleys differs from the location of corresponding streets or alleys on the Zoning Map, the location of the actual streets or alleys controls.

2. **PROPERTY LINES.** Boundary lines shown as following, or approximately following, lot lines or other property lines shown on the Zoning Map shall be construed as following such lines.

3. **TOE OR TOP OF SLOPE.** Boundary lines shown as following, or approximately following, the toe or the top of a steep slope, shall be construed as following the contour line of the toe or top of slope.

4. **WATERCOURSES.** Boundaries shown as following, or approximately following, the centerline of streams or other watercourses shall be construed as following the channel centerline. In the event of a natural change in the location of such streams or other watercourses, the zoning district boundary shall be construed as moving with the channel centerline. However, such movement shall not render existing development nonconforming.

5. **PARALLEL TO FEATURES.** Boundaries shown as separated from and parallel, or approximately parallel, to any of the features listed in subsections (d)(1) through
(d)(4), above, shall be construed to be parallel to such features and at such distances as are shown by the scale on the zoning map.

(e) **Un-subdivided Land or No Identifiable Feature.** In the absence of a rezoning ordinance that specifies parcel boundaries, on un-subdivided land, or where a district boundary follows no identifiable feature, the location of district boundaries shall be determined by applying the following rules in sequential order, until the boundaries are known:

1. **TEXT DIMENSIONS.** The boundary shall be located by reference to dimensions shown in text on the zoning map, if any.
2. **MAP SCALE.** The boundary shall be located using the map scale appearing on the zoning map.

### Sec. 16-3-104. Zoning of Annexed Land

(a) *Generally.* Zoning of annexed land or land in the process of annexation is an “initial zoning.” The standards and procedures that apply to zoning of annexed land are the same as those applied to a rezoning of property within the City limits.

(b) *Timing of Adoption of Zoning Ordinance.* An ordinance proposing zoning of a parcel or parcels to be annexed shall not be finally adopted by the City Council before the date of final adoption of the annexation ordinance, but the annexation ordinance may be processed concurrently and heard at the same hearing as the zoning ordinance for the annexed property.

### Sec. 16-3-105. Standards for Rezoning

(a) *Generally.* The City Council may approve an application for rezoning if it finds that:

1. The policy set out in Subsection B., below, is implemented;
2. The standards set out in Subsection C., below, are met; and
3. One or more of the alternatives set out in Subsection D., below, are met.

(b) *Historic Resource Protection and Hazard Mitigation.*

1. It is the policy of the City not to rezone land in a manner that would tend to create or facilitate the creation of development rights or entitlements that would either:
   A. Reduce the level of protection for significant historical resources that exist on the Subject Property; or
   B. Expose additional people or personal property to unmitigated natural or man-made hazards that are present on the Subject Property.

2. This policy may be waived upon a finding by the City Council that:
   A. Alternative means have been implemented (or will be implemented as a condition of development approval) to achieve a comparable or better level of historic resource protection or hazard mitigation; or
B. The policy is outweighed by a substantial community interest that is served by approval of the rezoning.

(c) **Compatibility and Public Benefits.** All applications for rezoning shall meet all of the following standards:

1. The proposed zone is in conformance with the Comprehensive Plan’s future land use map;
2. The proposed zone will provide a benefit (or degree of benefit) to the community or immediate area that cannot be provided in the existing zone, and which is sufficient to offset potential adverse impacts of the proposed zone, if any;
3. If the proposed zone is an “IND” zone, its boundaries are such that it has no negative impact on character, integrity, or use of the Historic District; and
4. Public facilities are addressed in at least one of the following ways:
   A. Adequate public facilities are available to serve development in the proposed zone; or
   B. The proposed zone would limit demands upon public facilities more than the existing zone; or
   C. Reasonable assurances are provided that adequate facilities will be made available to serve new development by the time the new development places demands on the facilities.

(d) **Alternative Standards.** All applications for rezoning shall meet at least one of the following four alternative standards:

1. **ALTERNATIVE #1.** The proposed zone is more appropriate than the existing zone to implement the most recent adopted City plan that was developed with public input (e.g., the Comprehensive Plan or a special area plan) and includes the Subject Property.

2. **ALTERNATIVE #2.** The proposed zone is more appropriate than the existing zone because:
   A. There has been a change in character or capacity of public infrastructure in the area (e.g., installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.); and
   B. The proposed zone allows for the reasonable development or redevelopment of the subject property in a manner that will be compatible with its existing or planned context.

3. **ALTERNATIVE #3.** The proposed zone is more appropriate than the existing zone because:
   A. There is greater need in the City for land in the proposed zone than the existing zone; and
B. The proposed zone will promote a balance of land uses in the City that will improve economic opportunity for City residents.

(4) ALTERNATIVE #4. The proposed zone is more appropriate than the existing zone because:
A. The existing zoning for the property was erroneously assigned; or
B. Development has not proceeded in reliance on the erroneous zone.

Division 3-2. Quartz Hill Overlay District

Sec. 16-3-200. Intent
The Colorado Department of Public Health and Environment ("CDPHE") completed Quartz Hill Remediation Project in 2014. The Project consisted of re-grading the tailings pile, construction of a new storm sewer, and placement of rock cover. These Quartz Hill Overlay District regulations (which include this Division and its related definitions) have been adopted in accordance with the express authority set forth in C.R.S, § 25-15-320(3)(b)(II), authorizing the City to adopt an ordinance imposing relevant environmental use regulations, and authority set forth in the Home Rule Charter and Title 31, C.R.S.

Sec. 16-3-201. Purpose
The purpose of this Division is to protect the integrity of the existing geotextile and rock installed as part of the Quartz Hill Remediation Project in 2014 while allowing for reasonable and appropriate future use of lands situated within the Quartz Hill Overlay District. The implementation of the regulations set forth in this Division which require an application for the issuance of an Overlay District Permit prior to any development or other soil-disturbing activity within the boundaries of the Quartz Hill Overlay District will ensure that human health and public safety are adequately protected.

Sec. 16-3-202. Overlay District Established
(a) Generally. The Quartz Hill Overlay District is hereby established as an overlay district that includes within its boundaries the area on the Quartz Hill Property map on file with the City Clerk which shall be the same as the area depicted on the as-built maps maintained by CDPHE. The boundaries of the Quartz Hill Overlay District shall be depicted on the City of Central Zoning Map. The provisions of this Division shall apply to any applications for building permit, zoning, subdivision, planned unit development, use by right, limited use, conditional use, or any other development activity that will result in any soil-disturbing activity for all properties located within the Quartz Hill Overlay District. The application of these regulations is in addition to the regulations of the underlying zone and of this LDC, and shall be considered by the appropriate decision-maker in conjunction with any application for development occurring within the Quartz Hill Overlay District.

(b) Boundaries.
(1) The boundaries of the Quartz Hill Overlay District are generally shown in Figure 16-5-902, Quartz Hill Overlay District Boundaries.

(2) To the extent of any discrepancies between the boundaries of the Overlay District set forth in Figure 16-5-902 and the boundaries set forth on the Quartz Hill Property map on file with the City Clerk, the map on file with the City Clerk shall control.

Sec. 16-3-203. Variances Not Allowable
The regulations set forth in this Division shall not be subject to any authority to vary the regulations of this LDC or the City of Central Building Code. No variances are permitted from this Division.

Sec. 16-3-204. Consultation to Amend
Prior to the Planning and Zoning Commission or City Council considering any amendment to this Division, the City shall consult with CDPHE and shall incorporate such requirements as CDPHE may recommend to ensure the Quartz Hill Remediation Project continues to protect human health and the environment.

Sec. 16-3-205. Regulation of Excavation Activities
No excavation, drilling, grading, digging, tilling, moving, or relocating of the geotextile or rock cap material or any other soil-disturbing activity is allowed with the Quartz Hill Overlay District, except:

(1) As authorized in a remedial decision document; or

(2) With the prior written consent of CDPHE, followed by a Overlay District Permit issued by the City Manager.
Sec. 16-3-206. Quartz Hill Overlay District Permit – Application Required.

(a) **Application Required.** Any application for any building permit, zoning, subdivision, planned unit development, use by right, limited use, conditional use, or any other development activity that will result in any soil-disturbing activity within the boundaries of the Quartz Hill Overlay District shall be preceded by an application for an Overlay District Permit.

(b) **Who May File; Form of Application.** An application for approval of an Overlay District Permit may be filed by a person having an interest in the property for which the Overlay District Permit is requested, with the written consent of the owner(s) of the property, and shall be made on a form provided by the City. At a minimum, the application must include:

1. A general site plan showing the major details of the proposed development, consisting of the location of buildings and structures, off-street parking and loading areas, service and refuse areas, means of ingress and egress, major landscaping or screening proposals, and signs and pedestrian areas, or a relevant summary of the development activity proposed to be conducted within the boundaries of the Quartz Hill Property;

2. A time schedule for the proposed development;

3. A plan for maintaining the integrity of rock cap installed as part of the Quartz Hill Remediation Project or a plan to relocate the tailings material to a new site as approved by CDPHE and other regulatory agencies, as applicable;

4. Any other information the applicant believes will support his or her request;

5. A letter from an authorized representative of CDPHE confirming that CDPHE has been informed of the proposed development activity within the boundaries of the Quartz Hill Overlay District;

6. Accompanying the application shall be a filing fee which shall be equal to the City’s zoning amendment fee.

(c) **Reimbursement Agreement.** Prior to the City’s acceptance of the application, the applicant shall be required to enter into a consultant reimbursement agreement with the City to cover the City’s costs related to reviewing and processing the application. The City may contract for professional assistance to review the application and provide consulting or other professional services related to reviewing the application. Any such professional fees incurred by the City shall be reimbursed by the applicant in accordance with the terms and conditions of the required consultant reimbursement agreement. Any and all fee(s) and other charges shall be paid in full by the applicant prior to the date on which the City Manager conducts application review pursuant to Section 16-3-207, below.

(d) **Exemptions.** The following activities shall be exempt from the Overlay District Permit application process established by this Division:

1. Operations, inspection and maintenance activities associated with the Quartz Hill Remediation Project undertaken within the boundaries of the Quartz Hill Property by CDPHE or its duly authorized contractor(s).
(2) Operations, inspection, and maintenance activities associated with the Quartz Hill Remediation Project undertaken within the boundaries of the Quartz Hill Property by the City Manager or his or her designee.

(3) Removal or repositioning of the yellow structure currently within the boundaries of the Quartz Hill Property (the “YELLOW HOUSE”), provided that the Yellow House shall be required to remain on skids and above the geotextile and rock cap.

(4) Any other activity exempted from the provisions of this Division pursuant to joint written consent of the City Manager and a duly authorized representative of CDPHE.

Sec. 16-3-207. Application Review

Following receipt of the application submitted pursuant to Section 16-3-206, the City Manager may request supplemental materials or information from the applicant. The application shall not be deemed complete until such time as all supplemental materials or information requested by the City Manager have been received. The City Manager shall, within 60 days following the date on which the application has been deemed complete, proceed to review the Overlay District Permit application and shall either approve the application in whole or in part, shall approve the application subject to conditions set forth in a writing, or shall deny the Overlay District Permit application. Approval of an Overlay District Permit shall require CDPHE’s written consent for any soil-disturbing activity, unless otherwise authorized in a remedial decision document.

Sec. 16-3-208. No Soil-Disturbing Activity without Overlay District Permit

No application for any building permit, zoning, subdivision, planned unit development, use by right, limited use, conditional use, or any other development activity that will result in any soil-disturbing activity within the boundaries of the Quartz Hill Overlay District shall be allowed until such time as the property owner or applicant has secured an Overlay District Permit and has fully complied with any conditions set forth in the Overlay District Permit. The issuance of an Overlay District Permit shall be a condition precedent to any soil-disturbing activity within the boundaries of the Quartz Hill Overlay District.

Sec. 16-3-209. Powers of City Manager

The City Manager shall have and exercise such powers as may be necessary and convenient to carry out and effectuate the purpose and provisions of this Division, including but not limited to the following powers:

(1) to investigate the Quartz Hill Property to determine compliance with these Quartz Hill Overlay District regulations;

(2) to enter upon the Quartz Hill Property for the purpose of making examinations, provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to persons in possession of the Quartz Hill Property;

(3) to undertake the routine operation and maintenance of the Quartz Hill Remediation Project remedy, as specified in the Administrative Settlement and Order and Consent (“AOC”) entered into by and between the City, CDPHE, and the EPA;
(4) to undertake any other activity required to be undertaken by the City as set forth in the AOC;

(5) to appoint and fix the duties of such officers, agents, contractors and employees as the City Manager deems necessary and convenient to carry out the purpose and provisions of this Division; and

(6) to delegate any of the powers and functions of the City Manager under this Division to such officers and agents as the City Manager may designate.

Sec. 16-3-210. CDPHE Enforcement Authorization

CDPHE may enforce the restrictions described in Section 16-3-205, above, by filing an action in district court seeking injunctive relief.

Sec. 16-3-211. Violations and Penalties

It is unlawful for any person, firm, or corporation to violate any provisions of this Division. Any person failing to comply with the provisions of this Division shall be subject to the penalty provisions set forth in Section 1-4-20 of the Central City Municipal Code. The City may seek restitution for any and all expenses related to the enforcement of this Division or of any damage to public property. The City reserves the right to refer any violation of this Division to CDPHE or EPA for additional enforcement action(s).

Division 3-3. Land Use

Sec. 16-3-300. Interpretation of Use / Zone Matrices

(a) Generally. The tables set out in this Division (“LAND USE TABLES”) describe which land uses are allowed administratively (“PERMITTED USES”), allowed administratively if certain conditions are met (“LIMITED USES”), allowed after public hearing if certain conditions are met (“CONDITIONAL USES”), and not allowed (“PROHIBITED USES”) in each zone.

(b) Legend. The following symbols are used in the Land Use Tables:

(1) “Y” means “Permitted Use.” Permitted uses are subject to administrative review for compliance with the general requirements of this LDC.

(2) “L” means “Limited Use.” Limited uses are subject to administrative review for compliance with specific standards that pertain to the use, and for compliance with general standards for all limited uses, and the general requirements of this LDC.

(3) “C” means “Conditional Use.” Conditional uses are subject to public hearing review for compliance with specific standards that pertain to the use, general standards for all conditional uses, and the general requirements of this LDC.

(4) “-“ means “Prohibited Use.” Prohibited uses are not allowed in the specified district.
(c) **Multiple Uses.** Proposed uses that combine more than one listed use, except those that qualify as “mixed-use,” shall meet the substantive and procedural requirements for each applicable listed use.

### Sec. 16-3-301. Residential and Special Residential Land Use Table

(a) **Generally.** The Residential and Special Residential Land Uses are set out in Table 16-3-301, *Residential and Special Residential Land Use.*

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Uses</td>
<td>RCE</td>
</tr>
<tr>
<td>Cottage</td>
<td>Y</td>
</tr>
<tr>
<td>Duplex</td>
<td>-</td>
</tr>
<tr>
<td>Live-work unit</td>
<td>L1</td>
</tr>
<tr>
<td>Manufactured home</td>
<td>L3</td>
</tr>
<tr>
<td>Multifamily</td>
<td>-</td>
</tr>
<tr>
<td>Multiplex</td>
<td>-</td>
</tr>
<tr>
<td>Single-family detached</td>
<td>Y</td>
</tr>
<tr>
<td>Townhome</td>
<td>-</td>
</tr>
<tr>
<td>Special Residential Uses</td>
<td></td>
</tr>
<tr>
<td>Assisted living, continuing care, or</td>
<td>-</td>
</tr>
<tr>
<td>congregate care</td>
<td></td>
</tr>
<tr>
<td>Boarding or rooming house</td>
<td>-</td>
</tr>
<tr>
<td>Convalescent center, Alzheimer’s care,</td>
<td>-</td>
</tr>
<tr>
<td>memory care, nursing home</td>
<td></td>
</tr>
<tr>
<td>Group home</td>
<td>L9</td>
</tr>
<tr>
<td>Manufactured home park or subdivision</td>
<td>L10,11</td>
</tr>
<tr>
<td>Protective care or residential rehabilitation</td>
<td>L9,12</td>
</tr>
</tbody>
</table>

(b) **Limited or Conditional Use Standards.** Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-301, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use. For example, if an entry in a cell of the table is “L1,2)” then the use is a limited use and the standards in subsections (b)(1) and (b)(2) apply to the use.

1. The use is allowed in existing buildings if such buildings were originally designed for single-family residential use. Existing buildings may be modified, but new buildings shall not be constructed to accommodate the use.

2. If the building has frontage on Main Street, no part of the use is allowed within 30 feet of the front building wall on the Main Street frontage unless the use is located above the Main Street ground floor. For the purposes of this standard, access stairs and publicly accessible hallways are not counted as part of the use.
(3) The use is allowed only within approved manufactured home parks or manufactured home subdivisions.

(4) Individual buildings shall not contain more than eight dwelling units.

(5) The use is allowed only within vertically mixed-use buildings.

(6) The use is allowed only in areas designated on an approved site plan or plat.

(7) All parking for the use must be provided on-site.

(8) If the use provides accommodations for more than six people, access to the use shall be by a street that has paved travel lanes that are not less than 11 feet in width between the subject property and Lawrence Street, Gregory Street, or Central City Parkway.

(9) The use must be separated from other uses of the same type by not less than 300 feet along the same street frontage (both sides of the street, measured from the property corners of the subject property), and not less than 100 feet in other directions (measured from the lot lines of the subject property).

(10) The use is not allowed within the Historic District.

(11) The use must meet the applicable design standards set out in Section 16-5-108, Manufactured Home Parks and Subdivisions.

(12) The use must be enclosed with a Class B Bufferyard that includes a wall or fence.

Sec. 16-3-302. Civic, Education, and Health Care Land Use Table

(a) Generally. The Civic, Education, and Health Care Land Uses are set out in Table 16-3-302, Civic, Education, and Health Care Land Use.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult day care</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>L1</td>
<td>L2</td>
<td></td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Cemetery / mausoleum</td>
<td>L3</td>
<td>L3</td>
<td>L14</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L4</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Child care centers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Y</td>
<td></td>
<td></td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>College or university</td>
<td>L5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family child care home</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Fire and rescue stations</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Funeral home or mortuary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hospital or emergency room</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical office or clinic</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Museum</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Place of assembly</td>
<td></td>
<td></td>
<td>L1.9</td>
<td>L2</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>C11</td>
</tr>
<tr>
<td>School, elementary or middle</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School, high</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TABLE 16-3-302
CIVIC, EDUCATION, AND HEALTH CARE LAND USE

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult day care</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>L1</td>
<td>L2</td>
<td></td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Cemetery / mausoleum</td>
<td>L3</td>
<td>L3</td>
<td>L14</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L4</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Child care centers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Y</td>
<td></td>
<td></td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>College or university</td>
<td>L5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family child care home</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Fire and rescue stations</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Funeral home or mortuary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hospital or emergency room</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical office or clinic</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Museum</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Place of assembly</td>
<td></td>
<td></td>
<td>L1.9</td>
<td>L2</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>C11</td>
</tr>
<tr>
<td>School, elementary or middle</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School, high</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(b) **Limited or Conditional Use Standards.** Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-302, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

1. If the use provides services to or involves the attendance of more than eight people simultaneously, access to the use shall be by a street that has paved travel lanes that are not less than 11 feet in width between the subject property and Lawrence Street, Gregory Street, or Central City Parkway.

2. If the building has frontage on Main Street, no part of the use is allowed within 30 feet of the front building wall on the Main Street frontage unless the use is located above the Main Street ground floor. For the purposes of this standard, access stairs and publicly accessible hallways are not counted as part of the use.

3. The following standards apply:
   A. The need for the use shall be demonstrated;
   B. The land area of the subject property shall be at least five acres;
   C. An endowment shall be provided for the perpetual maintenance of the cemetery or mausoleum, or a comparable irrevocable source of funding for such maintenance shall be in place; and
   D. All grave sites shall be set back at least 20 feet from public rights-of-way.

4. Outdoor play areas serving child care centers shall be enclosed by a solid fence that is at least six feet in height, and shall not be located within the front yard.

5. The function of the use shall relate to the resource conservation / multi-use purposes of the zone (e.g., mining, agriculture, geology, hydrology, forestry, ecology, etc.).

6. Buildings that are used to embalm or cremate human remains shall be set back 150 feet from property used or zoned for residential purposes, measured from the outside building walls of the crematorium to the residential lot line.

7. The use shall be located within a mixed-use or multi-use building.

8. The use shall not involve the treatment of communicable diseases.

9. The land area of the subject property shall be at least 2.5 acres.

10. Subject property shall be spaced at least 150 feet from property used or zoned for residential purposes, measured from property line to property line.
(11) The use shall not be located adjacent to a heavy industry, extraction (minerals), solid waste transfer station, or heavy logistics use unless buildings, parking areas, and outdoor activity areas are set back at least 300 feet from property lines, and it is demonstrated that truck traffic from the adjacent use or uses will not materially conflict with traffic attributed to the use of the subject property.

(12) The land area of the subject property shall be at least:

A. Elementary Schools: The greater of 5 acres or 1,200 sf. per student at design capacity.

B. Middle Schools: The greater of 10 acres or 1,900 sf. per student at design capacity.

C. High Schools: The greater of 20 acres or 2,000 sf. per student at design capacity.

(13) Vocational or technical programs shall not include the use of heavy machinery or the generation of noise or dust that is perceptible at the property line.

(14) Existing uses shall be considered conforming. No new use of this type shall be established in this zone.

Sec. 16-3-303. Hospitality, Gaming, Recreation, and Entertainment Land Use Table

(a) Generally. The Hospitality, Gaming, Recreation, and Entertainment Land Uses are set out in Table 16-3-303, Hospitality, Gaming, Recreation, and Entertainment Land Use.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RCE</td>
</tr>
<tr>
<td>Bar, tavern, or nightclub</td>
<td>-</td>
</tr>
<tr>
<td>Bed and breakfast</td>
<td>C5</td>
</tr>
<tr>
<td>Campground, RV park, resort cabins</td>
<td>L3.8, 19.20</td>
</tr>
<tr>
<td>Children's resident camp</td>
<td>L3.8, 19.20</td>
</tr>
<tr>
<td>Commercial equestrian facilities</td>
<td>Y</td>
</tr>
<tr>
<td>Gaming</td>
<td>-</td>
</tr>
<tr>
<td>Golf course or driving range</td>
<td>L3.19</td>
</tr>
<tr>
<td>Hostel</td>
<td>-</td>
</tr>
<tr>
<td>Hotel</td>
<td>-</td>
</tr>
<tr>
<td>Indoor amusement, recreation, or entertainment</td>
<td>-</td>
</tr>
<tr>
<td>Indoor shooting range</td>
<td>-</td>
</tr>
<tr>
<td>Outdoor commercial recreation</td>
<td>L2.12, 19</td>
</tr>
</tbody>
</table>

TABLE 16-3-303
HOSPITALITY, GAMING, RECREATION, AND ENTERTAINMENT LAND USE
### TABLE 16-3-303
**Hospitality, Gaming, Recreation, and Entertainment Land Use**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outdoor shooting range</td>
<td>C1,2,10</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C1.2,10</td>
</tr>
<tr>
<td>Park with playfields or courts</td>
<td>L13,14,19</td>
<td>L13,14,19</td>
<td>L13,19</td>
<td>-</td>
<td>-</td>
<td>L13,19</td>
<td>L13,19</td>
<td>L13,19</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Motorsports park or staging area</td>
<td>C2,12</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C2.12</td>
</tr>
<tr>
<td>Passive parks or playgrounds</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Recording or television studio</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L11</td>
<td>L6</td>
<td>-</td>
<td>L2</td>
<td>L2</td>
<td>Y</td>
</tr>
<tr>
<td>Restaurant</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>-</td>
</tr>
<tr>
<td>Sexually-oriented business</td>
<td>C2,3,7</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C2.7</td>
<td>C2.7</td>
<td>-</td>
</tr>
<tr>
<td>Stadium or amphitheater</td>
<td>C2,3,7,18</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C2.7</td>
<td>C2.7</td>
<td>-</td>
</tr>
<tr>
<td>Zoo</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

(b) **Limited or Conditional Use Standards.** Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-303, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

1. Subject property shall be spaced at least 150 feet from property used or zoned for residential purposes, measured from property line to property line.

2. Noise generated by the use shall not exceed 45 dBA at any residential building wall between the hours of 9:00 PM and 7:00 AM (except that 20 days per calendar year, said noise levels shall not exceed 60 dBA between the hours of 10:00 PM and 7:00 AM) unless the owner of the residential property provides a written waiver in recordable form.

3. Subject property shall be at least 10 acres in area.

4. The use is allowed in existing buildings if such buildings were originally designed for single-family residential use. Existing buildings may be modified, but new principal buildings shall not be constructed to accommodate the use.

5. All required parking for the use shall be provided on-site.

6. The use shall be located within a mixed-use or multi-use building.

7. The use shall be enclosed by a class B buffer yard. See Sec. 16-5-403

8. The use shall comply with CDPHE standards (6 CCR 1010-9) for:
   - Developed campgrounds if the campground accommodates only tents.
   - Modern campgrounds if the campground accommodates recreational vehicles.
(9) All activities related to the use shall be indoors.


(11) If the building has frontage on Main Street, no part of the use is allowed within 30 feet of the front building wall on the Main Street frontage unless the use is located above the Main Street ground floor. For the purposes of this standard, access stairs and publicly accessible hallways are not counted as part of the use.

(12) The function of the use shall relate to the resource conservation / multi-use purposes of the zone (e.g., outdoor commercial recreation uses include zip lines, paintball, or obstacle courses, and motorsports park or staging areas include off-road vehicle or snow machine use).

(13) A class C bufferyard shall buffer the use from adjacent property that is used for residential purposes. See Sec. 16-5-403

(14) Lighting of playfields and courts is not allowed.

(15) The use shall be spaced not less than 1,000 feet, measured as the shortest distance from the property line of the use to the nearest property line of the use or zone from which spacing is required, from:

A. Other sexually-oriented businesses;
B. Lots that are developed with dwelling units;
C. Residential zone boundaries;
D. Schools, public parks, and child care centers that are located within the City limits; and
E. Places of assembly.

The spacing requirement may be reduced to 500 feet if one of the uses that is subject to the reduced separation does not operate between 7:00 PM and 9:00 AM.

(16) Access to the use shall be configured to allow for verification of age of customers before entry into rooms where sexually-oriented merchandise is displayed or sexually-oriented entertainment activities occur.

(17) The interior of the use shall be configured so that sexually-oriented activity, sexually-oriented merchandise, and depictions of said activity or merchandise, are not visible from outside of the building through windows or doors.

(18) A Colorado wildlife exhibitor’s park license is required.

(19) Court areas shall be enclosed by a fence that is a minimum of five feet in height.

(20) A geological survey shall demonstrate that the use may be safely conducted on the subject property.
(21) The use may include up to three dwelling units (which may be manufactured homes) that may be occupied for any length of time, provided that such units are occupied by any of the following persons: the owners of the park; the manager of the park, if any; and the assistant manager of the park, if any. Manufactured homes, if used, must be installed as if in a manufactured home park or subdivision. See Sec. 16-5-108.

Sec. 16-3-304. General Commercial and Motor Vehicle Land Use Table

(a) Generally. The General Commercial and Motor Vehicle Land Uses are set out in Table 16-3-304, General Commercial and Motor Vehicle Land Use.

<table>
<thead>
<tr>
<th>TABLE 16-3-304</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GENERAL COMMERCIAL AND MOTOR VEHICLE LAND USE</strong></td>
<td>RCE</td>
</tr>
<tr>
<td><strong>Land Use</strong></td>
<td></td>
</tr>
<tr>
<td>Heavy retail</td>
<td>-</td>
</tr>
<tr>
<td>Kennel, indoor only</td>
<td>-</td>
</tr>
<tr>
<td>Kennel, with outdoor runs</td>
<td>-</td>
</tr>
<tr>
<td>Office, general</td>
<td>-</td>
</tr>
<tr>
<td>Pawnbroker or check cashing</td>
<td>-</td>
</tr>
<tr>
<td>Retail sales and services</td>
<td>-</td>
</tr>
<tr>
<td>Self-service laundry</td>
<td>-</td>
</tr>
<tr>
<td>Veterinarian, large animal</td>
<td>Y</td>
</tr>
<tr>
<td>Veterinarian, small animal</td>
<td>-</td>
</tr>
<tr>
<td>Wholesale</td>
<td>-</td>
</tr>
<tr>
<td>Heavy truck or RV parking lot</td>
<td>-</td>
</tr>
<tr>
<td>Motor vehicle repair, heavy</td>
<td>-</td>
</tr>
<tr>
<td>Motor vehicle repair, light</td>
<td>-</td>
</tr>
<tr>
<td>Motor vehicle sales or rental</td>
<td>-</td>
</tr>
<tr>
<td>Motor vehicle wash</td>
<td>-</td>
</tr>
<tr>
<td>Parking lot, surface</td>
<td>-</td>
</tr>
<tr>
<td>Parking structure</td>
<td>-</td>
</tr>
</tbody>
</table>

(b) Limited or Conditional Use Standards. Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-304, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

(1) Subject property shall be at least one acre in area.

(2) Subject property shall be located at least 200 feet from residential zone boundaries.

(3) Dog runs will not be used after 7:00 p.m. or before 7:00 a.m.
(4) Outdoor components of the use shall be screened from abutting properties and rights-of-way by a Class C bufferyard.

(5) If the building has frontage on Main Street, no part of the use is allowed within 30 feet of the front building wall on the Main Street frontage unless the use is located above the Main Street ground floor. For the purposes of this standard, access stairs and publicly accessible hallways are not counted as part of the use.

(6) The use shall be located within a mixed-use or multi-use building.

(7) Not more than five passenger vehicles that are for rent or for sale may be stored in this zone; such vehicles must be stored in designated parking spaces.

(8) Allowed if use existed on subject property on the effective date.

(9) Allowed in conjunction with a retail sales and services use (e.g., a retail bakery may also wholesale its products).

(10) The use shall be materially screened from ground-level view from Main Street, Nevada Street, Spring Street, Gregory Street, Lawrence Street, Eureka Street, and the primary street fronting the subject property, in one or more of the following ways:
   A. Intervening buildings;
   B. Attached buildings that contain other uses that are permitted in the zone in which the use is located; or
   C. If the subject property is outside of the GGG or HDG zones, a Type C Bufferyard.

(11) Overhead doors shall not face abutting streets.

(12) No vehicles shall be parked outside overnight.

(13) Not allowed within Gregory Gulch.

Sec. 16-3-305. Marijuana Land Use Table

(a) Generally. The Marijuana Land Uses are set out in Table 16-3-305, Marijuana Land Use.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RCE</td>
</tr>
<tr>
<td>Medical marijuana center</td>
<td>-</td>
</tr>
<tr>
<td>Medical marijuana-infused product manufacturer</td>
<td>-</td>
</tr>
<tr>
<td>Optional premises cultivation operation</td>
<td>-</td>
</tr>
<tr>
<td>Medical marijuana testing facility</td>
<td>-</td>
</tr>
<tr>
<td>Retail marijuana store</td>
<td>-</td>
</tr>
<tr>
<td>Retail marijuana cultivation facility</td>
<td>-</td>
</tr>
<tr>
<td>Retail marijuana products manufacturing facility</td>
<td>-</td>
</tr>
</tbody>
</table>
TABLE 16-3-305
MARIJUANA LAND USE

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail marijuana testing facility</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Marijuana club</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

(b) **Limited or Conditional Use Standards.** Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-305, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

(1) Existing uses only. As of the effective date, proposed new uses are subject to Ordinance 17-05.

(c) **Marijuana Policy.** All marijuana uses that are allowable in the City, regardless of the applicable approval process, are subject to Section 16-1-103, *Policy Regarding Marijuana Uses and Marijuana Cultivation.*

Sec. 16-3-306. Industry, Transportation, Storage, and Disposal Land Use Table

(a) **Generally.** The Industry, Transportation, Storage, and Disposal Land Uses are set out in Table 16-3-306, *Industry, Transportation, Storage, and Disposal Uses.*

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extraction (minerals)</td>
<td>C1.2, 3,4,17</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C1.2, 3,4,17</td>
</tr>
<tr>
<td>Extraction (oil and gas)</td>
<td>L3,14, 15,16,17</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L3,14, 15,16,17</td>
</tr>
<tr>
<td>Heavy industry</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Light industry</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L7</td>
<td>L7</td>
<td>L7</td>
<td>L7</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Salvage Yard</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C4.5</td>
<td>L4.5</td>
<td></td>
</tr>
<tr>
<td>Transportation and Storage Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Airport or heliport</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C8</td>
</tr>
<tr>
<td>Helistop</td>
<td>C8.9</td>
<td>C8.9</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C8.9</td>
<td>C8.9</td>
<td>C8.9</td>
</tr>
<tr>
<td>Heavy logistics</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C3.6</td>
<td>L3.6</td>
<td></td>
</tr>
<tr>
<td>Outdoor storage yard</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L5</td>
</tr>
<tr>
<td>Self-storage</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>L10</td>
<td>L13</td>
<td>L13</td>
<td>Y</td>
</tr>
<tr>
<td>Transit center</td>
<td>-</td>
<td>-</td>
<td>C3.11</td>
<td>C3.11</td>
<td>C3.11</td>
<td>C3.11</td>
<td>C3.11</td>
<td>C3.11</td>
<td>C3</td>
<td>C3</td>
</tr>
<tr>
<td>Disposal Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solid waste transfer station</td>
<td>C2, 3,4,6</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C2, 3,4,6</td>
</tr>
<tr>
<td>Solid waste disposal</td>
<td>C2,3, 4,6,12</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>C2,3, 4,6,12</td>
</tr>
</tbody>
</table>
Limited or Conditional Use Standards. Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-306, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

1. All extraction activities shall be in accordance with an adopted Master Plan for Extraction. See Sec. 16-6-301, Master Plan for Extraction.

2. The use shall be enclosed within a Class D Bufferyard that includes security fencing.

3. A heavy vehicle routing plan is required. See Sec. 16-6-302, Heavy Vehicle Routing Plan.

4. Noise generated by the use shall not exceed 45 dBA at any residential building wall between the hours of 9:00 PM and 7:00 AM.

5. Outdoor storage and processing areas shall be screened from view from residential zones and public rights-of-way with a Class C Bufferyard.

6. The use shall be located not less than 1,000 feet from the boundary of any residential zone (on-site buffers may be counted towards the 1,000 foot separation).

7. The use is allowed in conjunction with on-site retail or educational uses in which the products of the use are used or sold.

8. A master plan for the airport, heliport, or helistop and a forecast of aviation activity is required. The master plan and activity forecast shall demonstrate that the proposal is designed to minimize the impact on existing and approved residential uses by:

   A. Minimizing the number of residences that are brought within the 55 DNL noise zone;

   B. Ensuring that residential uses do not come within the 65 DNL noise zone unless they are subject to an appropriate aviation easement; and

   C. The airport’s safety zones are situated so that the airport will not materially interfere with the anticipated development of the City.

9. The airport, heliport, or helistop shall comply with all applicable federal regulations.

10. Units must be accessed from interior hallways. Bay door access is not allowed.

11. Commercial vehicles shall not be stored or maintained on-site.

12. A certificate of designation is required.

13. The use shall be screened from view from public rights-of-way and adjacent residential zones (if any) by a Class C Bufferyard or intervening buildings that are used for retail, restaurant, or office purposes.
(14) Extraction and drilling operations shall be located to mitigate impacts on other nearby land uses to the maximum feasible extent that does not materially affect operations.

(15) Extraction and drilling operations shall be enclosed by appropriate security fencing or an opaque barrier that is at least eight feet in height.

(16) Existing tree stands shall be preserved to the extent practicable as a method of screening the operation from adjacent public streets.

(17) Access roads shall be designed and maintained to limit airborne dust and erosion, and to prevent tracking of debris onto public rights-of-way.

Sec. 16-3-307. Utility and Communications Land Use Table

(a) Generally. The Utility and Communications Land Uses are set out in Table 16-3-307, Utility and Communications Uses.

| TABLE 16-3-307 |
|-----------------|---|---|---|---|---|---|---|---|---|
| **UTILITY AND COMMUNICATIONS USES** | **Zoning District** | **RCE** | **LDR** | **MDR** | **HDR** | **HDG** | **GGG** | **TSL** | **LCC** | **GPC** | **IND** |
| **Utility Uses** | 110 kV+ power transmission lines | L1,2 | L1,2 | L1,2 | L1,2 | - | - | L1,2 | L1,2 | L1,2 |
| | Utility facilities, minor | L3,4 | L3,4 | L3,4 | L3,4 | L3,4,5 | L3,4,5 | L3,4 | L3,4 | L3,4 |
| **Communications Uses** | Communications tower | C6,7,8, 9,10,11 | - | - | - | - | - | - | C6,7,8, 9,10,11 | C6,7,8, 9,10,11 |
| | Stealth tower | L6,7,8, 9,10,11 | - | - | - | - | - | C11 | C11 | L6,7,8, 9,10,11 |
| | Attached facilities | L6,7,12, 13,14 | L6,7,12, 13,14 | L6,7,12, 13,14 | L6,7,12, 13,14 | - | - | L6,7,12, 13,14 | L6,7,12, 13,14 |

(b) Limited or Conditional Use Standards. Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-307, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

(1) No new transmission lines shall be installed without a certificate of need from the Colorado Public Utilities Commission, or an exemption certification. To the extent practicable, new transmission lines shall be located within existing transmission easements or routed outside of the City limits.

(2) New transmission lines that are not located within existing transmission easements shall be routed to minimize their impact on the historic, natural resource, and scenic values of the City, according to the following priorities, in descending order:

A. Minimize impacts of construction and maintenance on historic resources;
B. Minimize impacts of construction and maintenance on views of the natural environment;

C. Avoid routes that follow ridge lines or cause poles or power lines to appear to rise above ridge lines; and

D. Minimize visual impacts using existing topographic features and existing stands of trees as screens between the route and areas of existing development within the City.

(3) The need for the minor utility facility on the subject property shall be demonstrated.

(4) The facility shall be:
   A. If larger than 10 sf. in footprint or 6 feet in height:
      i. Completely screened from view from Main Street, Nevada Street, Spring Street, Gregory Street, Lawrence Street, and Eureka Street using landscaping, topography, or intervening buildings; and
      ii. Materially screened from view from single-family residential uses that are located within 600 feet of the subject property.

   B. If 10 sf. in footprint or smaller and less than 6 feet in height, designed or finished in a manner that mitigates its visual impact or camouflages its use.

(5) The facility shall be of a type that does not generate noise or odors.

(6) The facility shall be designed and sited so it does not cause interference with the normal operation of public safety communications, radio, television, telephone, or other communication services in the City, as certified by a qualified radio frequency engineer.

(7) All structures shall be constructed out of non-reflective materials (visible exterior surfaces only) and finished with colors that diminish their visual impact.

(8) Towers are not allowed unless it is demonstrated that no existing towers can feasibly accommodate the needs that the Applicant proposes to address.

(9) Towers that are more than 50 feet in height shall be spaced not less than one-quarter mile from any existing tower that is over 50 feet in height, unless there are no reasonably suitable alternative sites in the required geographic area that can meet the needs that the Applicant proposes to address.

(10) Towers shall be designed and constructed to accommodate WCFs from at least two wireless service providers on the same tower.

(11) Towers shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device.

(12) Facilities may extend not more than two feet from the building wall plane.
(13) Facilities shall not extend above the roofline unless it is demonstrated that a wall mounted facility is inadequate to provide service, and:
   A. Whip antennas extend not more than 12 feet above the parapet of any flat roof or ridge of any sloped roof or penthouse to which they are attached
   B. Panel antennas extend not more than seven feet above the parapet of a flat roof to which they are mounted (panel antennas are not allowed on sloped roof systems), and are set back from the parapet one foot for every foot in height above the parapet, unless such setback would materially compromise their effectiveness; and
   C. Other related accessory equipment extends not more than four feet above the parapet of a flat roof upon which the equipment is mounted (accessory equipment is not allowed on sloped roof systems).

(14) Facilities shall not be attached to residential buildings or mixed-use buildings that include residential uses.

Sec. 16-3-308. Agricultural Land Use Table

(a) Generally. The Agricultural Land Uses are set out in Table 16-3-308, Agricultural Land Use.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial crop or animal production</td>
<td>Y</td>
<td>L1.2</td>
<td>L1.2</td>
<td>L1.2</td>
<td>-</td>
<td>-</td>
<td>L1.2</td>
<td>L1.2</td>
<td>L1.2</td>
<td>L1.2</td>
</tr>
<tr>
<td>Community garden</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

(b) Limited or Conditional Use Standards. Where one or more numbers are shown next to an “L” or a “C” in Table 16-3-308, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

(1) The use is allowed to continue as a conforming use if it is operational on the subject property on the effective date.

(2) After the effective date, the use is allowed if:
   A. The subject property is 10 acres or larger;
   B. The slope of the subject property is not more than six percent; and
   C. The use is limited to crop production.

Sec. 16-3-309. Uses That Are Prohibited in All Zones

The following uses are prohibited in all zones in Central City:

(1) Disposal of radioactive wastes;

(2) Fossil fuel power generation (except back-up generators for individual uses);
(3) Intensive agriculture;
(4) Marijuana uses that are not specifically allowed by Table 16-3-305;
(5) Nuclear power generation;
(6) Slaughterhouse; and
(7) Waste incinerator.

Sec. 16-3-310. Standards for All Conditional Uses

(a) Generally. All uses that are listed in the in the land use tables of Sections 16-3-301 to 16-3-308, inclusive, as conditional uses (“C”) shall meet the standards of this Section in addition to the applicable “limited or conditional use standards” referenced by the applicable land use table.

(b) Review Standards. An application for conditional use approval may be approved if it is demonstrated that:

(1) The proposed conditional use complies with the “limited or conditional use standards” that apply to it (based on the references in the land use table);

(2) The proposed conditional use in its proposed location will not conflict with the implementation of current adopted plans of the City, including, but not limited to, the Comprehensive Plan;

(3) The proposed use, in its proposed configuration, will not create unsafe traffic conditions, generate heavy truck or heavy equipment traffic on residential streets, or cause damage to City streets due to the type of equipment used or the frequency of heavy truck traffic;

(4) The proposed use will operate in a manner that does not disturb the use and enjoyment of residential property in the City;

(5) If located within the historic district, the conditional use is compatible with surrounding land uses, and will not materially detract from the historic character of the historic district;

(6) If not located within the historic district, the conditional use is compatible with the existing or planned use of the immediate area, and will not negatively affect the area’s anticipated development or redevelopment trajectory (for example, by creating a critical mass of similar conditional uses that is likely to discourage permitted and limited uses by making the vicinity less desirable for them); and

(7) The proposed use will provide one or more of the following:

A. A needed community service;
B. Needed public infrastructure;
C. New jobs that are likely to pay more than the median wages for the region;
D. A critical mass of related and mutually supportive land uses that promote quality economic development and opportunity; or

E. An improved balance of land uses, such that appropriate supporting activities such as employment, housing, leisure, and retail are (or are planned to be) in close proximity to one another.

(c) **Conditions of Approval.** The Planning Commission may establish conditions of approval to ensure that the standards of this Section and the applicable “limited or conditional use standards” are met.

**Sec. 16-3-311. Uses That Are Not Listed**

(a) **Generally.** If a proposed use is not listed in the land use tables of Sections 16-3-301 to 16-3-308, inclusive, or in Section 16-3-309, then the proposed use shall be evaluated pursuant to this Section. The proposed use may be unregulated, permitted, limited, conditional, or prohibited based on the evaluation.

(b) **Intent.**

(1) The City Council recognizes that there is a middle-ground between the position that “all uses that are not specifically permitted by the LDC are prohibited” and the position that “all uses that are not specifically prohibited by the LDC are allowed.” The City Council finds:

A. The former places too much burden on the right to use property to be consistent with the values of the residents of the City; and

B. The latter would frustrate the purposes and administration of this LDC by inviting arguments regarding whether a particular use is included in the list of uses regulated by this LDC and creating uncertainty that undermines the stability upon which many residents and real estate investors depend for their lifestyles and livelihoods.

(2) This Section is intended to provide that “middle ground.” It is the intent of this Section to create sufficient flexibility to allow for property owners to establish new uses that are not specifically identified in this LDC, without placing upon the property owner the burden of waiting for the City to initiate and process an ordinance amending this LDC.

(3) This Section should be interpreted to favor the establishment of the new use. Accordingly, if a new use meets the threshold determination under subsection D., below, and is comparable to two or more listed uses, then the listed use which is allowed with the least process shall be selected as the comparable use.

(4) It is the intent of the City Council to provide flexibility, but not to allow this Section to be used to avoid the application of this LDC. Likewise, it also is the intent of the City Council that this Section not be used to create rules and regulations that are not part of this LDC.
(c) Application.

(1) The first step of this process (the “Threshold Determination” in subsection C., below) is to determine whether a proposed “use” is a “principal use” under this LDC, and not something else (like a temporary use or a structure) that should be allowed without City approval or with a more limited administrative review (e.g., a staff review, a building permit, etc.).

(2) If a proposed “unlisted use” is a “principal use,” then it is the intent of City Council that it be approved in the same manner and under the same conditions as the single listed use to which the proposed use is most closely “functionally comparable.”

(3) If a proposed “unlisted use” is not a “principal use,” then it is the intent of the City Council to ensure that it is classified appropriately as a temporary land use, an accessory use, a part of an existing principal use, an accessory building or structure, or a sign. That classification shall be used to determine if any requirements of this LDC apply.

(d) Threshold Determination.

(1) The Administrator shall review the description of the proposed use and decide whether the proposed use is:

A. A principal land use;
B. A seasonal land use;
C. A temporary land use;
D. An accessory use;
E. An accessory building or structure;
F. A sign;
G. Mechanical, water, wastewater, electrical equipment, or communications equipment which provides services to a building or use on the applicant’s property and not to other properties; or
H. An area or activity that is a customary part of the existing or approved principal use of the applicant’s property.

(2) Proposed principal land uses shall be evaluated according to the standards of subsection (e), below. Other classifications (listed subsections (d)(1)B. to (d)(1)H., above) do not require further analysis under this Section, but may be subject to other requirements of this LDC according to its terms, or to the Building Codes, or to other parts of the Central City Municipal Code.

(e) Functionally Comparable Principal Uses. New or changed principal uses are permitted, limited, conditional, or prohibited in the same manner as uses to which they are most closely functionally comparable. An unlisted use is functionally comparable to a listed use if,
with regard to each of the decision criteria below, the unlisted use has no greater negative impacts than listed use to which it is being compared:

(1) Average daily and peak hour trip generation (personal vehicles and heavy trucks);
(2) Impervious surface;
(3) Regulated air or water emissions;
(4) Noise;
(5) Ground vibration;
(6) Exterior lighting;
(7) Dust;
(8) Odors (including but not limited to odors from storage of solid wastes prior to pickup);
(9) Potentially hazardous conditions (such as risk of fire or explosion, projectiles leaving the site, etc.);
(10) Use and storage of hazardous materials;
(11) Secondary impacts on the community (e.g., increased crime or threats to public health, or degradation of historic resources); or

(f) Effect of Determination.

(1) If the Administrator finds that an unlisted use is most closely functionally comparable to a permitted, limited, or conditional use, then an application for approval of the unlisted use at a particular location shall be processed with the same restrictions as the listed use that is functionally comparable.

(2) If the Administrator determines that an unlisted use is most closely functionally comparable to a prohibited use, or is not functionally comparable to any listed use, then the unlisted use is a prohibited use.

(g) Record-Keeping; Proposed Amendment. The Administrator shall keep a record of all determinations of functionally comparable uses. The Administrator may propose an amendment to this LDC to incorporate such uses into existing use definitions, or to add new land uses and revise the land use tables accordingly.

Sec. 16-3-312. Essential Services

Essential services are allowed in all zones.
Division 3-4. Temporary Uses

Sec. 16-3-400. Temporary Use Permit Required; Conditions of Approval

(a) Generally. A temporary use permit is required prior to the commencement of the temporary uses that are described in this Division.

(b) Exceptions. This Division does not apply to:

(1) The use of public parks and rights-of-way (see Article V, Chapter 11, Central City Municipal Code); or

(2) Pre-approved temporary uses (which are subject to the standards set out in the applicable site plan or other approval and not the standards of this Division).

(c) Conditions of Approval. Additional conditions may be imposed by the Administrator if deemed necessary to minimize the potential adverse impacts of a temporary use on neighboring properties, public streets, or the City, or to reduce hazards to the public, historic resources, or event participants. Such conditions shall not relate to the content of or viewpoint expressed in constitutionally protected speech, except where a statute so authorizes (e.g., statutes that protect minors from speech that is harmful to minors) or a court of competent jurisdiction has upheld such conditions. Generally, conditions of approval may include, but are not limited to, the following:

(1) Modification or restrictions on the hours of operation or duration of the event.

(2) Arrangements satisfactory to the City for the provision of special or extraordinary services or equipment, such as traffic control or security personnel, fire protection, emergency response personnel, or specialized equipment that is reasonably needed to ensure safe operation of the use or event.

(3) Additional liability insurance, based on the scale and risks involved with the use or event.

(d) Denial of Temporary Use Permit. The City may refuse to issue a temporary use permit if the application does not demonstrate compliance with the applicable standards of this Division, or if proposed use or event is too large to be safely conducted at the proposed site.

Sec. 16-3-401. Temporary Special Events

(a) Generally. Temporary special events include entertainment, cultural, religious, or charitable events, as well as temporary sales events that have a short duration, such as farmers’ markets, outdoor bazaars, and comparable events. Temporary special events may be located on property that has another principal use or on vacant property. There are three classes of temporary special events as provided in this Section.

(b) Classification of Temporary Special Events. For the purposes of regulation and permitting (see subsection (c), below), Temporary Special Events are classified as “Class A”, “Class B”, and “Class C”, as follows:

(1) Class A. “Class A Temporary Special Events” are:
A. Temporary special events with an expected peak attendance of 200 people or more, which include any of the following:
   i. Motorized amusement rides;
   ii. Mega-inflatables that are 20 feet or more in height;
   iii. Outdoor music, speeches, or performances with amplification that will likely produce more than 50 dBA of noise at the property line; or
   iv. More than five livestock animals.

B. Events that would otherwise be “Class B Temporary Special Events” (see subsection (b)(2), below), but have:
   i. An expected peak attendance of more than 500 people; or
   ii. Outdoor music, speeches, or performances with amplification after 8:30 PM.
   iii. Events that require the closing of streets or other significant alterations of traffic patterns, such as motion picture filming.

(2) CLASS B. “Class B Temporary Special Events” are:

A. Temporary special events with an expected peak attendance of 100 to 500 people, which do not include motorized equipment, amplified sounds with material off-site impacts, or more than five livestock animals. Illustrative Class B temporary special events could include, but are not limited to:
   i. Farmers’ market;
   ii. Outdoor bazaar / auction / flea market;
   iii. Craft fair or art fair;
   iv. Health fair;
   v. Outdoor cultural festival or religious assembly;
   vi. Outdoor theater festival; or
   vii. Renaissance fair; or

B. Temporary special events that are held within an otherwise vacant building or vacant portion of a building.

C. Staging and parking areas on private property for events within the public right-of-way, such as parades, bicycle races, and charity walks or runs.

(3) CLASS C. “Class C Temporary Special Events” are temporary events of a community service nature, which typically involve a mobile facility and do not involve organized presentations or large numbers of attendees at one time. Examples include bloodmobiles, mobile pickup units for nonprofit organizations (e.g., disaster relief donations, thrift store donations, etc.), and mobile recycling facilities.
Standards for Approval of Temporary Use Permits for Special Events. The standards that apply to approvals of Temporary Use Permits for temporary special events are set out in Table 16-3-401, Standards for Approval of Temporary Special Events.

<table>
<thead>
<tr>
<th>TABLE 16-3-401</th>
<th>STANDARDS FOR APPROVAL OF TEMPORARY SPECIAL EVENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Performance Standard</strong></td>
<td><strong>Class of Temporary Special Event</strong></td>
</tr>
<tr>
<td><strong>Location and General Site Requirements</strong></td>
<td><strong>Class A</strong></td>
</tr>
<tr>
<td>Locations where event is allowed</td>
<td>Sites with nonresidential principal uses in the RCE, HDR, HDG, GGG, TSL, LCC, or GPC zone; or vacant land in the in the RCE, GGG, TSL, LCC, or GPC zone</td>
</tr>
<tr>
<td>General site requirements</td>
<td>The event shall be held on a site that is suitable for safely accommodating the expected level of attendance.</td>
</tr>
<tr>
<td>Buildings and structures</td>
<td>Temporary structures that are taller than the height limitations of the applicable zone shall be set back from all property lines a distance of 1 foot for every 2 feet in height. If existing buildings are used, they must be in a condition that is safe and appropriate for the intended level of use and occupancy.</td>
</tr>
<tr>
<td><strong>Frequency and Duration of Event</strong></td>
<td></td>
</tr>
<tr>
<td>Frequency and duration of events</td>
<td>No site shall host a Class A Temporary Special Event more than 6 times per year, and no individual event shall be longer than 10 consecutive days.</td>
</tr>
<tr>
<td><strong>Access, Circulation, and Parking</strong></td>
<td></td>
</tr>
<tr>
<td>Street access and traffic control</td>
<td>The street from which access is taken must have adequate capacity to serve the temporary special event, including acceleration and deceleration lanes or, if appropriate for safe traffic operations, personnel to manage ingress and egress to the site.</td>
</tr>
<tr>
<td>Circulation</td>
<td>Safe on-site vehicular and pedestrian circulation shall be provided, including: (1) minimizing vehicular-pedestrian conflicts; (2) providing appropriate directional signage and / or parking attendants; (3) ensuring efficient access by emergency vehicles; and (4) maintaining full access to permanent uses on-site if they are operating during the temporary event, or emergency access to permanent uses on site if they are not operating during the temporary event.</td>
</tr>
<tr>
<td>Motor vehicle parking</td>
<td>The number of parking spaces available for the temporary special event shall be sufficient to meet the peak demands of the event, assuming 3 attendees per vehicle. Fewer parking spaces may be allowed if the applicant demonstrates that the reduced number is justified based on the nature of the event, the provision of alternative transportation (e.g., busses), or the close association of the event with a permanent use (e.g., a hotel) that provides parking for attendees. Parking may be provided in remote locations, provided that if parking is provided more than 800 feet from the boundaries of the temporary special event, an appropriate level of shuttle service is provided between the event and the parking area.</td>
</tr>
<tr>
<td>Truck parking spaces</td>
<td>Truck parking areas shall be provided as necessary to service the event and provide for storage of trucks and trailers that will remain on-site.</td>
</tr>
</tbody>
</table>
### TABLE 16-3-401
 **STANDARDS FOR APPROVAL OF TEMPORARY SPECIAL EVENTS**

<table>
<thead>
<tr>
<th>Performance Standard</th>
<th>Class of Temporary Special Event</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Class A</td>
</tr>
<tr>
<td>Semi-Trailer Parking</td>
<td>Semi-trailer parking spaces shall be off-street. Semi-trailer parking areas shall be located at least 150 from multifamily residential uses and 200 feet from lot lines of any other residential use. Semi-trailers shall be routed away from local residential streets.</td>
</tr>
</tbody>
</table>

#### Operations

<table>
<thead>
<tr>
<th>Class A</th>
<th>Class B</th>
<th>Class C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lighting</td>
<td>All lighting shall be designed to ensure safe operation of the temporary use and safe traffic movements on nearby streets. All lighting, except decorative lighting, shall be shielded from abutting streets and residential buildings that are located within 300 feet. If the lighting impacts residential uses, it shall be dimmed or turned off by 10 PM.</td>
<td>No lighting shall be installed for the temporary special event.</td>
</tr>
<tr>
<td>Noise controls</td>
<td>Noise shall be controlled so that: (1) The noise level at the nearest residential property line does not exceed 50 dBA after 10:00 PM; (2) The noise level at the property line of the temporary use does not exceed 75 dBA for more than two hours per day; and (3) The noise level at the property line of the temporary use does not exceed 85 dBA at any time. Gas or diesel-powered generators, if used, shall be secured and set back at least 25 feet from all property lines.</td>
<td>Noise shall be controlled so that: (1) The noise level at the nearest residential property line does not exceed 50 dBA after 10:00 PM; and (2) The noise level at the property line of the temporary use does not exceed 65 dBA at any time. Gas or diesel-powered generators, if used, shall be secured and set back at least 25 feet from all property lines.</td>
</tr>
<tr>
<td>Sanitation</td>
<td>Restrooms shall be provided at a rate of one toilet and one urinal per 50 expected attendees (including event staff), and accessible facilities shall be provided as required by law (restrooms may be temporary or provided by agreement for the use of permanent restroom facilities that are located within 300 feet of the event site); trash containers and recycling bins shall be placed in convenient areas including principal places of assembly, near food and beverage vendors, near restrooms, and at entry and exit points. All litter generated by the event shall be removed at no expense to the City. Litter cleanup shall extend into adjoining public rights-of-way.</td>
<td>The applicant shall demonstrate that the use does not require additional facilities, that additional facilities are provided, or that facilities of the permanent use of the property will be available to those who attend the temporary event.</td>
</tr>
<tr>
<td>Security</td>
<td>The applicant shall demonstrate that adequate security is provided for the proposed temporary use.</td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 16-3-401
STANDARDS FOR APPROVAL OF TEMPORARY SPECIAL EVENTS

<table>
<thead>
<tr>
<th>Performance Standard</th>
<th>Class of Temporary Special Event</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Class A</td>
</tr>
<tr>
<td>Insurance / Site Restoration</td>
<td>A Certificate of Insurance shall be provided to the City demonstrating that the applicant has a commercial general liability insurance policy, written on an occurrence basis for bodily injury, personal injury, property damage and product liability, with a minimum limit of liability of $1,000,000 per occurrence and with a $2,000,000 aggregate. The insurance policy must list the City as an additional insured, and must be primary and non-contributory. Additional endorsements may be required for events with amusement rides or alcoholic beverages.</td>
</tr>
<tr>
<td>Site restoration / cleanup</td>
<td>The site of the temporary event and the abutting right-of-way shall be cleared of all litter and debris from the event, including temporary signage, not more than two days after the last day of the event. The City may require a refundable deposit for site clean-up.</td>
</tr>
</tbody>
</table>

### Sec. 16-3-402. Temporary Commercial Sales Uses

(a) **Generally.** Temporary commercial sales uses are outdoor sales of retail and seasonal products on a temporary basis. Illustrative temporary commercial sales uses include seasonal holiday sales (e.g., pumpkins and Christmas trees), outdoor sales by a single itinerant vendor (e.g., poster or framed art sale, carpet sales), or temporary food and beverage vendors.

(b) **Classification of Temporary Commercial Sales Uses.** For the purposes of regulation and permitting (see subsection (c), below), Temporary Commercial Sales Uses are classified as "Class A", "Class B", and "Class C", as follows:

1. **Class A.** “Class A Temporary Commercial Sales Uses” are:
   A. Outdoor sales of merchandise by businesses that are located in another permanent location in Central City; and
   B. Outdoor sales of merchandise by itinerant vendors.

2. **Class B.** “Class B Temporary Commercial Sales Uses” are temporary outdoor sales of merchandise by vendors who own or lease space on the site of the sale (such temporary uses may also be pre-approved (see Sec. 16-3-400. Temporary Use Permit Required; Conditions of Approval).
(3) **CLASS C.** “Class C Temporary Commercial Sales Uses” are temporary food and beverage vendors, except those that are included in temporary special event programming that is authorized under Sec. 16-3-401. _Temporary Special Events._

(c) **Standards for Approval of Temporary Use Permits for Commercial Sales.** The standards that apply to approvals of Temporary Use Permits for commercial sales are set out in Table 16-3-402, _Standards for Approval of Temporary Commercial Sales._

<table>
<thead>
<tr>
<th>TABLE 16-3-402</th>
<th>STANDARDS FOR APPROVAL OF TEMPORARY COMMERCIAL SALES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Performance Standard</strong></td>
<td><strong>Class of Temporary Commercial Sales Use</strong></td>
</tr>
<tr>
<td><strong>Location and General Site Requirements</strong></td>
<td></td>
</tr>
<tr>
<td>Locations where event is allowed</td>
<td>Class A temporary commercial sales are allowed only in the HDG, GGG, LCC, and GPC zones.</td>
</tr>
<tr>
<td>General site requirements</td>
<td>No site shall be used for a temporary commercial sale if it does not comply with the vision clearance area requirements set out in Section 16-5-107, <em>Vision Clearance Areas.</em></td>
</tr>
<tr>
<td><strong>Frequency and Duration of Event</strong></td>
<td></td>
</tr>
<tr>
<td>Frequency and duration of event</td>
<td>30 days per year may be used for Class A temporary commercial sales, but no individual temporary commercial sale shall be longer than 10 days.</td>
</tr>
<tr>
<td><strong>Buildings and Structures</strong></td>
<td></td>
</tr>
<tr>
<td>Height and design</td>
<td>The location and height of temporary buildings and structures shall comply with the requirements of the applicable zoning district</td>
</tr>
<tr>
<td>Spacing and setbacks</td>
<td>Outside temporary commercial temporary sales activities shall be set back the greater of: 2 feet from all property lines; or 5 feet from the back of the curb (or, if no curb is present, the edge of pavement).</td>
</tr>
<tr>
<td><strong>Access, Circulation, and Parking</strong></td>
<td></td>
</tr>
<tr>
<td>Access</td>
<td>The street from which access is taken must have adequate capacity to serve the temporary commercial sale, including acceleration and deceleration lanes or, if appropriate for safe traffic operations, personnel to manage ingress and egress to the site.</td>
</tr>
<tr>
<td>Circulation</td>
<td>Safe on-site vehicular and pedestrian circulation shall be provided, including: (1) minimizing vehicular-pedestrian conflicts; (2) providing appropriate directional signage; (3) ensuring efficient access by emergency vehicles; and (4) maintaining full access to permanent uses on-site if they are operating during the temporary commercial sales event, or emergency access to permanent uses on-site if they are not operating during the temporary commercial sales.</td>
</tr>
</tbody>
</table>
Sec. 16-3-403. Temporary Buildings and Temporary Construction Uses

(a) Temporary Buildings and Temporary Construction Uses. Temporary buildings and temporary construction uses are those uses that relate to construction activities or the temporary expansion of an existing permanent use into a portable building. There are two classes of temporary buildings and temporary construction uses:

(1) Class A Temporary Building / Construction Uses. “Class A Temporary Building / Construction Uses” are temporary heavy construction uses, such as batch plants for lime, concrete, asphalt, or other materials, or areas for the bulk outdoor storage or staging of construction materials or equipment.

(2) Class B Temporary Building / Construction Uses. “Class B Temporary Building / Construction Uses” are temporary buildings that are used on construction sites as contractor offices, sales offices, security buildings, sanitary facilities, or storage buildings, as well as storage containers that are larger than 8 feet x 8 feet x 20 feet, or dumpsters with a total capacity of more than 30 cubic yards. Class B temporary building and construction uses also include manufactured buildings that are used to temporarily expand the capacity of an existing use, including portable classrooms on
school campuses, either in advance of and during permanent construction or to accommodate a temporary increase in capacity.

(b) Temporary Storage Containers and Dumpsters.

(1) Temporary storage containers and dumpsters are uses that relate to temporary outdoor storage of household or business property in shipping containers during remodeling, landscaping, cleaning, or moving; or the temporary placement of a roll-off dumpster or comparable solid waste container (e.g., disposable containers that require collection service other than standard household garbage collection) for household waste, construction waste, or landscaping debris. To qualify as a “temporary storage container” or “temporary dumpster,” and not a “Class B Temporary Building / Construction Use”:

A. Storage containers may not be larger than 8 feet x 8 feet x 20 feet in dimension; and

B. Dumpsters may not have a capacity that is larger than 30 cubic yards.

(2) Temporary storage containers or dumpsters shall not be placed on the public right-of-way without a permit from the Public Works Department. Public Works approval is separate from approval under this Code.

(c) Standards for Approval of Temporary Use Permits for Commercial Sales. The standards that apply to approvals of Temporary Use Permits for temporary buildings and temporary construction uses are set out in Table 16-3-403, Standards for Approval of Temporary Buildings and Temporary Construction Uses.

<table>
<thead>
<tr>
<th>Temporary Use</th>
<th>Location of Use</th>
<th>Operational Requirements</th>
<th>Duration of Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concrete, mortar and asphalt batching operations</td>
<td>Must be located at least 500 feet from residential zone boundaries or property lines of lots that are used for residential purposes (measured as the shortest linear distance from the edge of the operation and the boundary or property line). Must be set back at least 40 feet from the right-of-way line and 25 feet from all other property lines, and screened from view from the Historic District.</td>
<td>Restroom facilities shall be provided on-site for employees / contractors. Plans shall provide for stormwater management and erosion and sediment control, and upon termination of use, final grading, site stabilization, and re-vegetation. Surety shall be provided in the amount of 125 percent of the estimated site restoration cost plus estimated road repair cost along principal truck routes. All necessary traffic control shall be provided at the applicant’s expense. Hours of operation shall be limited to 8:00 AM to 8:00 PM if any residential use is located within 1,000 feet; 6:00 AM to 10:00 PM in all other locations.</td>
<td>Established by approval, but will coincide with the use of the facility for a specified construction project.</td>
</tr>
</tbody>
</table>
TABLE 16-3-403
STANDARDS FOR APPROVAL OF TEMPORARY BUILDINGS AND TEMPORARY CONSTRUCTION USES

<table>
<thead>
<tr>
<th>Temporary Use</th>
<th>Location of Use</th>
<th>Operational Requirements</th>
<th>Duration of Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary construction yard</td>
<td>Within 1/2 mile of the construction to which the construction yard relates. Must be set back at least 40 feet from the right-of-way line and 25 feet from all other property lines.</td>
<td>Plans shall provide for stormwater management and erosion and sediment control, and upon termination of use, final grading, site stabilization, and re-vegetation. Surety shall be provided in the amount of 125 percent of the estimated site restoration cost plus estimated road repair cost along principal truck routes. Truck and heavy equipment activity limited to 8:00 AM to 8:00 PM if any residential use is located within 1,000 feet; 6:00 AM to 10:00 PM in all other locations.</td>
<td>Established by approval, but will coincide with the use of the facility for a specified construction project.</td>
</tr>
<tr>
<td>Class B Temporary Building / Construction Uses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary manufactured buildings</td>
<td>The building shall be set back as required for principal buildings, if possible. Alternative locations may be approved as part of a construction staging plan if there is no reasonable alternative location that complies with the required setbacks.</td>
<td>May be used by construction superintendent, construction workers, contractors, and other personnel on a construction team; a security office; or as temporary office or classroom space. Restroom facilities shall be provided on properties that use temporary buildings unless the buildings are only used for storage. May not be used as a residence.</td>
<td>No limit for public schools; construction-related facilities shall be removed prior to certificate of occupancy for last building; other buildings shall be removed within two years from date of permit.</td>
</tr>
<tr>
<td>Model homes and on-site real estate offices</td>
<td>On lot or parcel proposed for development</td>
<td>Sales limited to units located on the lot or parcel proposed for development; sales offices within model homes shall meet applicable building code criteria. Restroom facilities shall be provided in or within 100 feet of model homes or on-site real estate offices.</td>
<td>Temporary buildings shall be removed upon completion of the model home(s) or suitable permanent floor area on-site.</td>
</tr>
<tr>
<td>Temporary Storage Containers and Dumpsters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary storage containers</td>
<td>On a subject property that is served by the temporary storage container. No encroachment onto lawn areas or sidewalks is permitted. On nonresidential parcels, containers must be located behind the principal building(s).</td>
<td>N/A</td>
<td>In general, 5 days if an active construction project is occurring with a valid permit, 6 months if located behind the principal building and screened from view from public rights-of-way, 1 year.</td>
</tr>
<tr>
<td>Temporary dumpsters</td>
<td>Must be located on a hard surface on the lot using the dumpster, set back at least one ft. from the property line. Dumpsters shall be located behind nonresidential and multifamily buildings and shall not obstruct required parking areas.</td>
<td>All refuse shall be contained within the dumpster, and shall be secured if necessary to prevent it from being removed from the dumpster by wind or wildlife.</td>
<td>If used for construction or renovation, may remain in place for 1 week after the permit is closed. If used for other purposes, up to 10 days.</td>
</tr>
</tbody>
</table>

(d) **Extension of Approvals.** Approvals pursuant to this Section may be extended upon demonstration of good cause, appropriate maintenance, extension of any required surety, and diligent pursuit of the purposes for which the uses were established. All applications for
renewal of a temporary use permit issued pursuant to this Section shall be submitted to the Administrator at least 10 working days before the expiration of the permit.

Sec. 16-3-404. Short-Term Rental of Dwelling Units

(a) **Generally.** The standards of this Section apply to short-term rental of residential dwelling units, which includes rental of all or part of a dwelling unit for a term of less than 30 days.

(b) **Business License Required.** No dwelling unit shall be offered for short-term rental unless the owner or lessee (with the written authorization of the owner) has first secured a business license for such use pursuant to Chapter 6, City of Central Municipal Code. Lodging tax shall be collected and remitted to the City pursuant to the requirements of Chapter 4, City of Central Municipal Code and licenses issued thereunder.

(c) ** Dwelling Unit Must Be Used as Primary Residence or Employee Housing.**

(1) Dwelling units that are offered for short term rental shall be used as a primary residence by the owner or a lessee, or as employee or contractor housing for a business or organization doing business within the City for a period of not less than 30 days per calendar year.

(2) Proof of primary residency shall include two of the following:

A. Current driver license or state-issued identification card;

B. Current motor vehicle registration;

C. Pre-printed pay stub, issued within 30 days of application; or

D. Bank or credit card statement, issued within 30 days of application.

(3) Proof of use of a dwelling unit for employee or contractor housing shall be by sworn affidavit attesting to the use, the reason for the use, and the duration of the use for employee or contractor housing.

(d) **Parking.** The use may utilize one on-street parking space. All other parking for the use shall be provided on-site (off street) or within a remote parking lot that is controlled by the owner and that has sufficient capacity for the use. Short-term rental contracts shall limit the number of guest vehicles to the number of parking spaces that are available to accommodate them.

Division 3-5. Accessory Uses

Sec. 16-3-500. All Accessory Uses

(a) **Generally.** Accessory uses are customarily incidental to or subordinate to a principal use. Accessory uses shall meet all of the conditions in this Section, along with any accessory use-specific standards of this Division.

(b) **Standards.** Accessory uses shall be:
(1) Clearly incidental and customary to and commonly associated with the operation of the principal use;

(2) Operated and maintained under the same ownership and on the same property as the principal use, except as otherwise provided in this LDC; and

(3) Conducted only in those buildings, structures, or structural features, or on land forms, that are consistent with the principal use.

Sec. 16-3-501. Home Occupations.

(a) Generally. Home occupations are allowed as an accessory use to any residential use, provided that the following standards are met:

(1) Home occupations must be clearly subordinate to the use of the building as a residence and shall not occupy more than 25 percent of the total floor area of the principal building; or if conducted from an accessory building, shall not occupy more than 20 percent of the total lot area.

(2) Home occupations shall be operated entirely within an enclosed building. Exterior storage of materials or equipment is not allowed.

(3) There shall be no visible evidence of the operation, other than signage in conformance with the sign ordinance, and it shall not change the residential character of the buildings on the subject property.

(4) The residential building must include complete facilities for residential use (i.e., kitchen, living room, bathroom and bedroom).

(5) When the home occupation is in use, the residential building must be occupied by a full-time resident.

(6) The home occupation shall not generate objectionable traffic in the area.

(7) The home occupation shall not be objectionable or hazardous due to odor, dust, smoke, noise, vibration or other similar impacts.

(b) Prohibitions. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations:

(1) Auto repair or motorized implement repair;

(2) Dance, music or other types of instruction (if more than four students are being instructed at one time);

(3) Dental offices;

(4) Medical offices;

(5) The painting of vehicles, trailers or boats;

(6) Private schools with organized classes;
(7) Motor vehicle towing operations;
(8) Barber or beauty shops having more than one chair;
(9) Welding shops;
(10) Nursing homes; and
(11) Pawnbrokering.

Sec. 16-3-502. Cottage Industries

(a) Generally. Cottage industries are allowed as a permitted accessory use to single-family detached residential uses, provided that the following standards are met:

(1) Cottage industries must be subordinate to the use of the property as a residence.
(2) Not more than two employees who do not reside on the subject property may work at the subject property at any given time.
(3) Exterior storage of materials or equipment is not allowed.
(4) There shall be no visible evidence of the operation, other than signage in conformance with the sign ordinance, and it shall not change the residential or agricultural character of the buildings on the subject property.
(5) The residential building must include complete facilities for residential use (i.e., kitchen, living room, bathroom and bedroom).
(6) When the cottage industry is in use, the subject property must be occupied by a full-time resident.
(7) The cottage industry shall not generate objectionable traffic in the area, and off-street parking must be provided to accommodate all needs created by the cottage industry.
(8) The cottage industry shall not be objectionable or hazardous due to odor, dust, smoke, noise, vibration or other similar impacts.

(b) Prohibitions. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as cottage industries:

(1) Auto repair, painting, or body work;
(2) Dental offices;
(3) Firewood processing, storage, or sales;
(4) Medical offices;
(5) The painting of vehicles, trailers or boats;
(6) Processing, storing, or selling firewood;
(7) Private schools with organized classes;
(8) Motor vehicle towing operations;
(9) Nursing homes; and
(10) Pawnbrokering; and
(11) Retail sales.

Sec. 16-3-503. Family Burial Sites

Family burial sites are allowed as an accessory to residential or agricultural uses in the RCE zones, provided that the subject property upon which the family burial site is located is at least five acres in area and the landowner complies with the requirements of C.R.S. § 25-2-111(7).

Sec. 16-3-504. Growing Marijuana in Residential Dwelling Units

(a) Generally.

(1) The requirements in this Section shall apply to the growing of marijuana, including medical marijuana, in residential dwelling units by primary caregivers, patients, and by any person who is 21 years of age or older who is authorized under Article XVIII, Section 16(3)(a) of the Colorado Constitution to grow or cultivate marijuana plants.

(2) Individual landowners may limit the cultivation, storage, or use of marijuana on their properties. This Section is not intended to limit the right of a landowner to prohibit the cultivation, storage, or use of marijuana on private property.

(3) Accessory uses that are allowed to existing under this Section are subject to Section 16-1-103, Policy Regarding Marijuana Uses and Marijuana Cultivation.

(b) Location. All cultivation, processing and production of marijuana plants shall be conducted entirely within a dwelling unit. No cultivation, processing, or production of marijuana may occur in an accessory structure; garage, whether attached or detached; shed; greenhouse; storage unit; or other structure other than a dwelling unit.

(c) Regulatory Compliance. Possession of marijuana by patients, caregivers and persons authorized to possess marijuana pursuant to Article XVIII of the Colorado Constitution shall comply with all applicable City and state regulations, ordinances and laws, including home occupation requirements set forth in this Chapter.

(d) No Use of Common Areas. No cultivation, possession or dispensing of marijuana shall occur in the common areas of a multi-family or attached residential building.

(e) Number of Plants.

(1) No more than 12 marijuana plants, regardless of size or stage of growth, may be cultivated or kept within any single dwelling unit.

(2) In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Article XVIII, Section 14 of the Colorado Constitution.
(3) In no event shall a person 21 years of age or older that is cultivating marijuana plants for his or her own use possess, grow, process or transport more than six marijuana plants, with three or fewer being mature. Possession of marijuana shall be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution and all state laws and regulations promulgated pursuant thereto.

(f) **Building and Life Safety Codes.** Possession, growing and processing of marijuana shall meet the requirements of all adopted City building and life/safety codes.

**Sec. 16-3-505. Mini-Libraries**

Mini-libraries are allowed, provided that they involve not more than one structure per lot, and they are set back two feet from the public right-of-way.

**Division 3-6. Development Yield**

**Sec. 16-3-600. Residential Density and Open Space**

(a) **Generally.**

(1) The number of dwelling units that may be constructed on a subject property is based on the area of the subject property and the zone in which it is located.

(2) After the maximum number of dwelling units is calculated according to the standards of this Section, the specifications for individual lots or building types shall comply with the requirements of Division 4-1, *Housing Palette*, for the type(s) of housing that will be developed.

(3) It is the policy of the City to allow for the continuation of existing residential uses, and for the construction of new single-family detached buildings on existing vacant lots in RCE, LDR, MDR, and HDR zones. As such:

A. All existing lots with existing residential buildings in the RCE, LDR, MDR, and HDR zones shall be considered “conforming” as to their density and dimensions on the effective date; and

B. The development yield of each existing vacant lot in the RCE, LDR, MDR, and HDR zones shall be a minimum of one single-family detached dwelling unit.

(b) **Density and Open Space by Zone.** The maximum residential density and minimum open space for each zone are set out in Table 16-3-600, *Maximum Density and Minimum Open Space*.

<table>
<thead>
<tr>
<th>TABLE 16-3-600</th>
<th><strong>MAXIMUM DENSITY AND MINIMUM OPEN SPACE</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard</strong></td>
<td><strong>Zoning Districts</strong></td>
</tr>
<tr>
<td></td>
<td>RCE</td>
</tr>
<tr>
<td>Maximum Density (u/a)</td>
<td>0.2</td>
</tr>
</tbody>
</table>
TABLE 16-3-600
MAXIMUM DENSITY AND MINIMUM OPEN SPACE

<table>
<thead>
<tr>
<th>Standard</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Open Space Ratio (&quot;OSR&quot;) (%)</td>
<td>RCE</td>
</tr>
<tr>
<td>N/A</td>
<td>10%</td>
</tr>
</tbody>
</table>

(c) Alternative Compliance with Open Space Requirements. The minimum open space ratio ("OSR") may be met by preserving an equivalent amount of open space on private property, if all of the following conditions exist:

1. The proposed development has fewer than 10 dwelling units;
2. The plat includes building envelopes and, as appropriate, designated landscape areas, that will ensure that:
   A. Applicable yard requirements of the housing palette (see Division 4-1, Housing Palette); and, in addition;
   B. Buildings and structures (except fences) are not allowed in areas that are used to meet the open space requirement.
   C. The drainage plan shows how drainage will be conveyed within rights-of-way to appropriate stormwater facilities;
   D. Bufferyards, if required, are identified on the plat as landscape easements;
   E. Covenants, conditions, and restrictions:
      i. Require the ongoing maintenance of landscape easements (where such easements exist) by the owners of the lots that are subject to the easements;
      ii. Ensure that the maintenance requirement is enforceable by the City;
      iii. Do not allow for amendment of the maintenance obligation without the consent of the Administrator.

Sec. 16-3-601. Nonresidential and Mixed-Use Development

(a) Generally. The standards of this Section apply to nonresidential and mixed-use development.

(b) Required Landscape Surface Ratio ("LSR"). Required LSRs for nonresidential uses in each zone are set out in Table 16-3-601, LSR by Zone. The LSR is the minimum portion of the subject property that must be allocated to natural features (e.g. rock outcroppings), permeable surfaces, or landscaping.
TABLE 16-3-601
LSR BY ZONE

<table>
<thead>
<tr>
<th>Standard</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Landscape Surface Ratio (“LSR”)</td>
<td>70%</td>
<td>25%</td>
<td>15%</td>
<td>15%</td>
<td>-</td>
<td>-</td>
<td>5%</td>
<td>10%</td>
<td>5%</td>
<td>10%</td>
</tr>
</tbody>
</table>

(c) **Intensity.** In general, the intensity of development (e.g., floor area ratio), is not directly regulated. However, the intensity of specific uses may be limited by use-specific or district-specific building coverage, floor area, or height standards (see, e.g., Sections 16-3-301 to 16-3-308, inclusive, or Division 4-4); or by conditions of approval of a conditional use (see Section 16-3-310). The standards of this Section are applied in addition to such use-specific or district-specific standards or conditions of approval.

**Sec. 16-3-602. Nonresidential Scale in Residential Zones**

(a) **Generally.** The purpose of these nonresidential scale standards is to ensure that nonresidential buildings that are constructed within residential zones are scaled so that they do not disrupt the pattern of the residential neighborhood in which they are located.

(b) **Applicability.** These standards apply only in the LDR, MDR, and HDR zones.

(c) **Building Scale.** The gross floor area of nonresidential buildings shall be limited based on the type of street from which primary access is taken, as provided in Table 16-3-602, Nonresidential Building Scale in Residential Zones.

<table>
<thead>
<tr>
<th>Width of Street from which Access is Taken (at its narrowest point)</th>
<th>Maximum Nonresidential Gross Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 or more lanes, at least 11 feet in width per lane</td>
<td>No Specific Maximum</td>
</tr>
<tr>
<td>2 lanes, at least 11 feet in width per lane</td>
<td>15,000 sf.</td>
</tr>
<tr>
<td>2 lanes, at least 8 feet in width per lane, but less than 11 feet in width per lane</td>
<td>8,000 sf.</td>
</tr>
<tr>
<td>Less than 2 lanes, or all lanes less than 8 feet in width</td>
<td>5,000 sf.</td>
</tr>
</tbody>
</table>

(d) **Alternative Compliance for Side-Street Access.** The maximum nonresidential floor area for a subject property that is bounded by streets of different widths may be based on a larger bounding street from which the property does not take access, provided that:

1. The street that provides access intersects with the larger bounding street; and

2. No residential front yards are located across the street in the area between the access to the nonresidential parcel and the larger bounding street.
Article 4. Lot and Building Standards

Division 4-1. Housing Palette

Sec. 16-4-100. Single-Family Detached Lot and Building Standards

(a) Generally. The single-family detached housing type consists of a single-family dwelling unit located on a privately-owned lot with private yards on each side of the unit. An illustrative single-family detached building is shown in Figure 16-4-100, Illustrative Single-Family Detached Building.

(b) Lot and Building Standards. Table 16-4-100, Single-Family Detached Lot and Building Standards, below, applies to all of the following when the subject property is to be used for single-family detached residential purposes:

(1) New development on vacant lots, and

(2) Redevelopment of existing lots (except that minimum lot area and width shall not apply to existing lots).

<table>
<thead>
<tr>
<th>Single-Family Lot Type</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lot Area</td>
<td>Lot Width</td>
</tr>
<tr>
<td>Estate Lot</td>
<td>½ acre</td>
<td>110 ft.</td>
</tr>
<tr>
<td>Large Lot</td>
<td>6,750 sf.</td>
<td>75 ft.</td>
</tr>
<tr>
<td>Town Lot</td>
<td>4,500 sf.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>Cottage Lot</td>
<td>2,800 sf.</td>
<td>35 ft.</td>
</tr>
</tbody>
</table>

TABLE NOTES:
1BCR = Building Coverage Ratio
Sec. 16-4-101. Duplex Lot and Building Standards

(a) Generally. The duplex housing type consists of two single-family dwelling units located in a single building (either side-by-side or over-and-under), or alternatively, two single-family detached buildings located within 5 feet of each other (“pull apart”). An illustrative duplex building is shown in Figure 16-4-101, Illustrative Duplex Building.

(b) Lot and Building Standards. Table 16-4-101, Duplex Lot and Building Standards, below, applies to all of the following when the subject property is to be used for duplex residential purposes:

(1) New development on vacant lots, and

(2) Redevelopment of existing lots.

<table>
<thead>
<tr>
<th>Duplex Lot Type</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lot Area</td>
<td>Lot Width</td>
</tr>
<tr>
<td>Side-by-Side</td>
<td>4,050 sf.¹</td>
<td>45 ft.¹</td>
</tr>
<tr>
<td>Over-and-Under</td>
<td>4,000 sf.²</td>
<td>40 ft.</td>
</tr>
<tr>
<td>Pull Apart</td>
<td>3,150 sf.³</td>
<td>35 ft.³</td>
</tr>
</tbody>
</table>

TABLE NOTES:
1. per dwelling unit
2. per building
3. Setback applies only to from the outside wall of the building to the side lot line. The setback at the lot line where the common wall is located is zero.
4. total separation between buildings
5. setback to garage door, if garage door faces front lot line
6. the front setback shall vary such that the front wall planes of the two units are offset by at least 2 feet
7. alley access or side or rear street access is required
8. BCR = Building Coverage Ratio
Sec. 16-4-102. Live-Work Lot and Building Standards

(a) Generally. The live-work housing type consists of a single-family dwelling unit combined with a “workspace” or commercial floor area, which are both located in a single building (either side-by-side or over-and-under). An illustrative multifamily live-work building is shown in Figure 16-4-102, Illustrative Multifamily Live-Work Building.

(b) Lot and Building Standards. Table 16-4-102, Live-Work Lot and Building Standards, below, applies to all of the following when the subject property is to be used for live-work purposes:

1. New development on vacant lots, and
2. Redevelopment of existing lots.

<table>
<thead>
<tr>
<th>Live-Work Lot Type</th>
<th>Lot and Building Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>House</td>
<td>See Town Lot standards, Table 16-4-100, Single-Family Detached Lot and Building Standards.</td>
</tr>
<tr>
<td>Townhome</td>
<td>See Alley or Parking Court Access Townhomes, Table 16-4-104, Townhome Lot and Building Standards</td>
</tr>
<tr>
<td>Multifamily</td>
<td>See Urban Multifamily standards, Table 16-4-106, Multifamily Lot and Building Standards</td>
</tr>
</tbody>
</table>

Sec. 16-4-103. Multiplex Lot and Building Standards

(a) Generally. The multiplex housing type consists of a building that resembles a single-family dwelling unit, but which includes three to five individual dwelling units. An illustrative multiplex building is shown in Figure 16-4-103, Illustrative Multiplex Building.
(b) **Lot and Building Standards.** Table 16-4-103, *Multiplex Lot and Building Standards*, below, applies to all of the following when the subject property is to be used for multiplex purposes:

1. New development on vacant lots, and
2. Redevelopment of existing lots.

### TABLE 16-4-103

<table>
<thead>
<tr>
<th>Multiplex Lot Type</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Setback</th>
<th>Side Setback</th>
<th>Street Side Setback</th>
<th>Rear Setback</th>
<th>Stories</th>
<th>BCR¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-unit</td>
<td>8,000 sf.²</td>
<td>80 ft.</td>
<td>15 ft. / 20 ft.²</td>
<td>10 ft.</td>
<td>12 ft.</td>
<td>20 ft.</td>
<td>2</td>
<td>40%</td>
</tr>
<tr>
<td>4-unit</td>
<td>10,000 sf.²</td>
<td>100 ft.</td>
<td>15 ft.³</td>
<td>10 ft.</td>
<td>12 ft.</td>
<td>20 ft.</td>
<td>2</td>
<td>40%</td>
</tr>
<tr>
<td>5-unit</td>
<td>12,000 sf.²</td>
<td>120 ft.</td>
<td>15 ft.³</td>
<td>10 ft.</td>
<td>12 ft.</td>
<td>20 ft.</td>
<td>2</td>
<td>40%</td>
</tr>
</tbody>
</table>

**TABLE NOTES:**

1. BCR = Building Coverage Ratio
2. per building
3. setback to garage door, if garage door faces front lot line

**Sec. 16-4-104. Townhome Lot and Building Standards**

(a) **Generally.** The townhome housing type consists of a building that includes three to eight dwelling units that are attached together by common walls. An illustrative townhome building is shown in Figure 16-4-104, *Illustrative Townhome Building*. 
(b) **Lot and Building Standards.** Table 16-4-104, *Townhome Lot and Building Standards,* below, applies to all of the following when the subject property is to be used for townhome purposes:

1. New development on vacant lots, and
2. Redevelopment of existing lots.

<table>
<thead>
<tr>
<th>Townhome Lot Type</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lot Area</td>
<td>Lot Width</td>
</tr>
<tr>
<td>Street Access</td>
<td>3,600 sf.</td>
<td>45 ft.</td>
</tr>
<tr>
<td>Alley or Parking Court Access</td>
<td>2,400 sf.</td>
<td>24 ft.</td>
</tr>
</tbody>
</table>

**TABLE NOTES:**
1. Setback to garage door.
2. May be increased as the City determines is necessary to provide safe access along the alley or within the parking court. Garage doors that face alleys or parking courts shall not be located in the area between 4 feet and 20 feet from the nearest edge of the alley or parking court.

**Sec. 16-4-106. Multifamily Lot and Building Standards**

(a) **Generally.** The multifamily housing type consists of a building that, except as otherwise classified in this division, includes multiple dwelling units that are separated by floors or interior walls. An illustrative multifamily building is shown in Figure 16-4-106, *Illustrative Multifamily Building.*
(b) **Lot and Building Standards.** Table 16-4-106, *Multifamily Lot and Building Standards*, below, applies to all of the following when the subject property is to be used for multifamily purposes:

1. New development on vacant lots, and
2. Redevelopment of existing lots.

<table>
<thead>
<tr>
<th>Multifamily Lot Type</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>Lot Width</td>
<td>Front Setback</td>
</tr>
<tr>
<td>Garden Multifamily</td>
<td>2.5 acres</td>
<td>250 ft.</td>
</tr>
<tr>
<td>Urban Multifamily</td>
<td>21,780 sf.</td>
<td>100 ft.</td>
</tr>
</tbody>
</table>

**TABLE NOTES:**
1. OSR = Landscape Surface Ratio

**Sec. 16-4-107. Manufactured Home Lot and Building Standards**

(a) **Generally.** The manufactured housing type consists of a manufactured home dwelling unit. An illustrative manufactured home is shown in Figure 16-4-107, *Illustrative Manufactured Home.*
(b) Lot and Building Standards. Table 16-4-107, Manufactured Home Lot and Building Standards, below, applies to all of the following when the subject property is to be used for manufactured home purposes:

1. New development on vacant lots, and
2. Redevelopment of existing lots.

### TABLE 16-4-107
**Manufactured Home Lot and Building Standards**

<table>
<thead>
<tr>
<th>Manufactured Home Lot Type</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Setback</th>
<th>Side Setback</th>
<th>Street Side Setback</th>
<th>Rear Setback</th>
<th>Stories</th>
<th>BCR¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-wide</td>
<td>4,000 sf.</td>
<td>40 ft.</td>
<td>15 ft. / 20 ft.²</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>10 ft.</td>
<td>1.5</td>
<td>50%</td>
</tr>
<tr>
<td>Double-wide</td>
<td>5,000 sf.</td>
<td>50 ft.</td>
<td>15 ft. / 20 ft.²</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>10 ft.</td>
<td>1.5</td>
<td>50%</td>
</tr>
<tr>
<td>Triple-wide</td>
<td>6,000 sf.</td>
<td>60 ft.</td>
<td>15 ft. / 20 ft.²</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>20 ft.</td>
<td>1.5</td>
<td>50%</td>
</tr>
</tbody>
</table>

**TABLE NOTES:**

1. BCR = Building Coverage Ratio
2. Setback to garage door, if garage door faces front lot line

---

**Division 4-2. Nonresidential and Mixed-Use Lot and Building Standards**

**Sec. 16-4-200. Nonresidential and Mixed-Use Lot and Building Standards**

Table 16-4-200, Nonresidential and Mixed-Use Lot and Building Standards, sets out the lot and building standards for nonresidential and mixed-use development.
TABLE 16-4-200
NONRESIDENTIAL AND MIXED-USE LOT AND BUILDING STANDARDS

<table>
<thead>
<tr>
<th>Standard</th>
<th>Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RCE</td>
</tr>
<tr>
<td>Min. lot area</td>
<td>5 ac.</td>
</tr>
<tr>
<td>Min. lot width</td>
<td>80 ft.</td>
</tr>
<tr>
<td>Min. front and street side setback</td>
<td>25 ft.</td>
</tr>
</tbody>
</table>

Min. interior side setbacks

| Principal buildings | 10 ft.| 10 ft.| 5 ft.| 5 ft.| 0/5 ft. | 5 ft.| 5 ft.| 10 ft.| 10 ft.| 25 ft. |
| Accessory buildings  | 5 ft.| 7 ft.| 5 ft.| 5 ft.| 0/5 ft. | 5 ft.| 5 ft.| 5 ft.| 10 ft.| 10 ft. |

Min. rear setbacks

| Principal buildings | 15 ft.| 30 ft.| 25 ft.| 15 ft.| 15 ft.| 15 ft.| 15 ft.| 15 ft.| 15 ft.| 25 ft. |
| Accessory buildings  | 5 ft.| 10 ft.| 5 ft.| 5 ft.| 5 ft.| 5 ft.| 5 ft.| 5 ft.| 5 ft.| 10 ft. |
| Min. parking setback from streets | 10 ft.| 10 ft.| 10 ft.| 10 ft.| 0 ft.| 0 ft.| 10 ft.| 10 ft.| 10 ft.| 10 ft. |

Max. building height

| Principal buildings | 35 ft.| 35 ft.| 35 ft.| 35 ft.| 53 ft.| 53 ft. | 35 ft.| 35 ft.| 35 ft.| 50 ft. |
| Accessory buildings  | 30 ft.| 30 ft.| 30 ft.| 30 ft.| 30 ft.| 30 ft.| 30 ft.| 30 ft.| 30 ft.| 50 ft. |

Table Notes:
1 Zero side yard setbacks may be approved in any of the following instances:
   • The property is approved as a planned unit development (PUD);
   • If an existing building on the lot abutting the subject side is situated with zero side setback; or
   • If more than ½ of the existing buildings on the block in which the subject property is located also maintain zero setbacks.
2 Minimum lot area may be reduced if the subject property utilizes off-site parking facilities.
3 For structured parking, using principal building setbacks.
4 Building height may be increased using the planned unit development process.

Division 4-3. Exceptions to Lot and Building Standards

Sec. 16-4-300. Purpose of Division
The purpose of this Division is to set out the exceptions to the lot and building standards and are created by Division 4-1 and Division 4-2.

Sec. 16-4-301. Front Setback Flexibility
The following exceptions to the front yard requirement for single-family detached and duplex dwellings that front on local streets (not collector or arterial streets) in areas where other lots on the street are developed with existing single-family or duplex dwelling units:

(1) If there are dwelling units on both abutting lots with front yards of less than the required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings.

(2) If there is a dwelling unit on one abutting lot with a front yard of less than the required depth for the district, the front yard for the lot need not exceed a depth
one-half (½) way between the depth of the abutting lot and the required front yard depth.

Sec. 16-4-302. Exception to Building Height Regulations

The height of chimneys, radio and television towers, wind chargers, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, grain elevators and other necessary mechanical appurtenances may exceed the building height regulations subject to approval as a conditional review use, except that the requirements in Section 16-3-310(b)(7) are replaced with the following:

1. The additional height does not materially affect the adequacy of light and air on adjacent properties or public rights-of-way;
2. The additional height does not materially affect views from neighboring properties to landmarks or scenic vistas;
3. The additional height does not affect public safety in case of structural collapse; and
4. Adequate firefighting capabilities are available to address the additional height in the event of a fire emergency.

Sec. 16-4-303. Projections into Required Setbacks

(a) Generally. Specified structures and architectural features may encroach into required setback areas as provided in Table 16-4-303, Setback Reductions for Building Elements, Equipment, and Structures.

<table>
<thead>
<tr>
<th>Architectural Element</th>
<th>Yard In Which Setback Reduction is Allowed</th>
<th>Amount of Setback Reduction Allowed (use whichever column allows the least setback reduction)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Front</td>
<td>Interior Side</td>
</tr>
<tr>
<td>Air conditioning units</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Awnings, canopies, or sunshades without supports that extend to ground</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Balconies</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Chimneys</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Decks, porches, or patios that are not covered, if the surface of the deck is less than 3 feet above average adjacent grade</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Decks, porches, or patios that are not covered, if the surface of the deck is 3 feet or more above average adjacent grade</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>One-story bay windows</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
TABLE 16-4-303
SETBACK REDUCTIONS FOR BUILDING ELEMENTS, EQUIPMENT, AND STRUCTURES

<table>
<thead>
<tr>
<th>Architectural Element</th>
<th>Yard In Which Setback Reduction is Allowed</th>
<th>Amount of Setback Reduction Allowed (use whichever column allows the least setback reduction)</th>
<th>Measured From Setback Line Towards Property Line</th>
<th>Measured From Property Line Towards Interior of the Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overhanging eaves and gutters</td>
<td>Yes Yes Yes Yes</td>
<td>4 ft.</td>
<td>3 ft. (if part of principal building)$^1$</td>
<td>2 ft. (if part of accessory building)</td>
</tr>
<tr>
<td>Parking shelters, detached from the principal building and open on all sides$^2$</td>
<td>No Yes No Yes</td>
<td>50% of the required setback</td>
<td>3 ft.</td>
<td></td>
</tr>
<tr>
<td>Stairways that are necessary for access to a permitted building or for access to property; fire escapes.</td>
<td>No No Yes Yes</td>
<td>As necessary</td>
<td>3 ft.$^3$</td>
<td></td>
</tr>
<tr>
<td>Cornices, canopies, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features</td>
<td>Yes Yes Yes Yes</td>
<td>2 ft.</td>
<td>4 ft.</td>
<td></td>
</tr>
</tbody>
</table>

**TABLE NOTES:**
$^1$ If the setback that is applicable to the principal building is 4 feet or less, then the Administrator may approve a revocable right-of-way encroachment permit.
$^2$ This exception does not apply in zones that are developed with single-family detached dwelling units of any type.
$^3$ The Administrator may approve a revocable right-of-way encroachment permit for a fire escape if necessary for a safe design.

(b) **Limitations.**

1. No building, building element, or structure shall cross a lot line:
   A. Into separately owned property, unless a recorded document provides for access to and maintenance of the projection;
   B. Into public property or rights-of-way, unless a revocable encroachment permit is issued by the Administrator;
   C. Into access easements; or
   D. Into utility easements, unless the design of the improvement and a recorded agreement allows access to the utility and allows the utility or the City to efficiently remove the encroachment at the property owner’s expense.

2. Projections shall not extend or encroach into any easement or right-of-way unless the City grants a revocable right-of-way license.
Division 4-4, Form and Massing Standards

Sec. 16-4-400. Purpose of Division

(a) Generally. The purpose of this Division is to create form and massing standards that ensure that new development and redevelopment is of comparable form, massing, and scale to existing buildings or historic development patterns.

(b) Relationship to Other Approvals. These form and massing standards are to be applied in addition to any applicable Design Guidelines. For development within the historic district, the HPC may modify these standards for individual applications through the Certificate of Appropriateness process.

Sec. 16-4-401. GGG Zone Form and Massing Standards

(a) Generally. The form and massing standards of this Section apply to new development or redevelopment in the GGG Zone.

(b) Form. The form of buildings shall be designed to appear as residential (large residence, small residence, or boarding house), commercial, retail/warehouse, or mill buildings, as conceptually illustrated in Figure 16-4-401, GGG Development Forms.

![FIGURE 16-4-401 GGG DEVELOPMENT FORMS](image)

Figure Note: the width and height of the buildings that are shown in this figure are for illustrative purposes only

(c) Massing.

(1) The front façade wall plane may not exceed 100 feet in length without an offset of at least 10 feet for a distance of at least 10 feet.

(2) The maximum ridge or parapet length on a new building is 100 linear feet.

(d) Building Modules. Buildings with front facades that are wider than 60 feet shall:

(1) Be in the form of a warehouse or mining structure, or
(2) Appear to be composed as a series of “modules” that are architecturally differentiated from each other in an obvious manner using at least three of the following techniques:

A. Color;
B. Cladding materials;
C. Height, provided that the change is at least 10 percent of the building height of the tallest module;
D. Roof form;
E. Window arrangement; or
F. Other facade articulation details, such as columns or strapwork.

(e) Building Coverage. Building coverage shall not exceed 65 percent of the lot area.

(f) Building Height. Buildings should not exceed two stories or 30 feet from the highest point to the lowest point, where they abut non-commercial neighborhoods.

Division 4-5. Supplemental Standards

Sec. 16-4-500. Purpose of Division

The purpose of this Division is to set out standards for certain accessory buildings, structures, and accessory uses.

Sec. 16-4-501. Accessory Buildings

(a) Generally. Accessory buildings shall comply with all requirements for principal buildings except where specifically modified by this Chapter.

(b) Spacing. No part of any accessory building shall be located closer than 10 feet to any principal building, whether on the same lot or on an adjacent lot.

Sec. 16-4-502. Accessory Dwelling Units.

(a) Generally. Accessory dwelling units are allowed on all lots that contain single-family detached dwelling units, provided that:

(1) If the accessory dwelling unit is in an accessory building, the minimum lot area is 8,000 square feet and the floor area of the accessory dwelling unit is not more than the lesser of 25 percent of the floor area of the principal dwelling unit or 450 square feet.

(2) If the accessory dwelling unit is integrated into the principal building, the floor area of the accessory dwelling unit comprises not more than 25 percent of the floor area of the principal building, except that an integrated accessory dwelling unit may occupy an entire basement or garden level, regardless of floor area.
Limitation on Use. Accessory dwelling units do not change the use of property from single-family to two-family use. As such, a single-family residential property that includes an accessory dwelling unit shall not be occupied by more than one family.

Sec. 16-4-503. Fences, Hedges, Walls, and Dog Runs

(a) Generally. A fence, hedge, wall, column, pier, post, dog run, or any similar type structure, or any combination of such structures, may be permitted within required setbacks in the various zones, subject to the conditions and requirements of this Section. It is intended that these conditions and requirements shall provide privacy and protection, and screening and accenting of shrubs and landscaping, without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles.

(b) Building Code. All fences and walls that are more than six feet in height are subject to Building Code requirements.

(c) Identification of Property Lines. It shall be the responsibility of the property owner to locate all property lines. No fence, hedge, or wall may extend beyond or across a property line unless in joint agreement with the abutting property owner. No fence, hedge, or wall shall extend into street or alley rights-of-way.

(d) Sidewalk Setback. No fence, hedge, or wall shall be placed nearer than 18 inches to any public sidewalk, unless by written permission of the Building Official.

(e) Security Fencing. No barbed wire or electrically charged fence shall be permitted, except as follows:

1. Temporary fences on construction sites may be as high as required to protect the property during the period of construction and may have barbed wire not less than eight feet above the ground.

2. In the RCE zone, barbed wire or an electrically charged fence may be permitted as an internal fence (i.e., not on the periphery of the property) if used to contain livestock.

(f) Dog Runs. Dog runs are allowed only in back yards, or in side yards if they are enclosed by an opaque fence that is taller than the dog run.

(g) Maximum Height; Exceptions.

1. Generally, no fence, wall, or hedge shall exceed six feet in height.

2. Within a required front setback area, no fence, wall, or hedge shall exceed four feet in height. Vision clearance areas have further limitations (see Sec. 16-5-107, Vision Clearance Areas).

3. If the State of Colorado requires a particular use to have a higher fence than this LDC otherwise allows, and the use meets all other requirements of this LDC, then the maximum height shall be increased to allow the state-mandated fence height.
(4) Wall height may be increased by up to two inches to allow for drainage under the wall.

(5) The height of a dog run may be increased up to ten feet, provided that the dog run is set back from property lines not less than 2 feet for each foot in height (or portion thereof) that the dog run extends above six feet.

(6) Posts and pillars may exceed the maximum fence height by up to eight inches.

(7) Open arches, gates, and pergolas may be constructed up to nine feet in height, provided such elements are spaced at least 30 feet apart.

(8) The Planning Commission may approve deviations from the standards of this subsection as required for appropriate buffering or screening, recreational purposes, or unique security requirements.

(h) Materials.

(1) Within the historic district, materials shall meet the requirements of applicable design guidelines.

(2) Outside the historic district:

   A. All fences shall be constructed to orient any exposed structural framework to the interior of the property;

   B. All fences or walls that are visible from public rights-of-way (“Visible Fences”) must be made from wood or composite wood (picket or post-and-rail), wrought iron, stone, split-face concrete masonry units, brick, powder-coated aluminum, or block and stucco.

   C. Fences or walls that are not visible from public-rights-of-way may be made from materials approved for Visible Fences, or from chain link or smooth-faced concrete masonry units.

   D. No barbed wire, razor edge, or electric wire fencing, nor fences with points or sharp edges along the top of the fence, are allowed without approval of the Administrator, who may approve such materials only to address a demonstrated security need.

Sec. 16-4-504. Decks, Balconies, and Porches

(a) Decks and Balconies.

(1) Reduced setbacks are available for some uncovered decks and uncovered balconies. See Section 16-4-303, Projections into Required Setbacks.

(2) No deck shall have a surface that is elevated higher than the level of the second floor of the principal building. Balconies may be located above the second floor.

(3) Balconies and decks that are accessed from upper floors shall not be located on the sides of buildings if the outer edge of the balcony or deck is closer than 15 feet to a side lot line, or five feet where the abutting property is zoned MDR or HDR.
(b) **Patios.**

(1) Reduced setbacks are available for some uncovered patios. See Section 16-4-303, *Projections into Required Setbacks.*

(2) Uncovered patios may extend into the rear yard of property that is developed for single-family detached, duplex, or townhome buildings, provided that they are designed so that they will not cause additional stormwater runoff onto adjacent properties compared to the conditions that existed prior to the development of the patio.

(c) **Covered and / or Enclosed Porches.** Covered or enclosed porches are subject to the same requirements as the building to which they are attached.

(d) **Open Porches.** An open porch may encroach into a required yard as provided in Section 16-4-303, *Projections into Required Setbacks.*

**Sec. 16-4-505. Retaining Walls**

(a) **Generally.** Retaining walls may be approved in the following circumstances where:

(1) Their use is an appropriate engineering solution which is part of an approved erosion control plan, slope stability plan, or stormwater management plan;

(2) They are necessary to retain soils and stabilize sites in areas of permitted cut and fill (e.g., for development, streets, trails, etc.);

(3) They are an appropriate engineering solution that is needed in order to mitigate the risk to life and property of a geologic or wildfire hazard; or

(4) They are used to terrace a residential yard to create more usable space.

(b) **Design of Retaining Walls.**

(1) Permitted retaining walls within the historic district shall comply with applicable design guidelines and not this subsection 16-4-505(b).

(2) In areas outside of the historic district, retaining walls shall blend in with the natural features of the setting as follows:

   A. Individual retaining walls shall not be more than eight feet tall. Where taller retaining walls are needed, a series of terraces or benches must be used. Terraces or benches shall be at least five feet wide and shall be planted with approved landscaping.

   B. Retaining walls shall be finished with native rock or other masonry which conveys a scale and texture similar to that of natural rock.

   C. Retaining walls shall be designed in a manner which does not materially diminish the mobility of wildlife.

(c) **Design Requirements.** Retaining walls shall be designed and stamped by a Colorado Registered Professional Engineer, specializing in Structural Engineering, if:
(1) Any part of the wall is six feet or greater, measured from the top of the wall to the lowest adjacent ground level, not including the foundation depth; or

(2) Any part of the wall is four feet in height or greater, and the height of the retaining wall exceeds its distance from a right-of-way line or a common property line.

**Sec. 16-4-506. Centralized Refuse and Recycling Containers**

(a) *Generally.* In development in which curbside trash pickup is not provided, centralized facilities shall be provided for solid waste collection (curbside residential trash pickup is regulated by Section 7-3-70, Central City Municipal Code).

(b) *Distance to Dwelling Units.* Centralized solid waste collection facilities shall be located so that they are available within 200 linear feet of the principal entrance of each residential unit or nonresidential service entrance.

(c) *Location on Site.*

(1) Centralized solid waste collection facilities shall be set back at least 10 feet from all property lines of the subject property.

(2) In the alternative, if it is not possible to service the centralized facilities in a location which is at least 10 feet from all property lines, then the facilities may be located closer to the property lines, provided that:

   A. They are designed and constructed to be consistent and compatible with the building or buildings on the subject property in terms of materials and architecture;

   B. The setback reduction is applied to the front setback as a “last resort,” and only if it is demonstrated that no other setback reduction will solve the service problem; and

   C. They are located as far from the property line as is practicable.

(d) *Enclosure Requirements.*

(1) The areas where refuse and recycling containers are stored shall be fully enclosed to a height of one foot above the top of the dumpster by:

   A. An opaque wall constructed of brick, stone, or stucco-finished concrete block (subject to HPC approval if within the Historic District); and/or

   B. Landscaped earthen berms.

(2) The enclosures shall be sized to include the types of solid waste containers that will be necessary to serve the use or uses of the subject property.

(e) *Access Configuration.*

(1) Service gates shall be provided and shall remain closed at all times except when the containers are being serviced.

(2) The enclosure shall also provide separate, accessible pedestrian access gates.
(f) **Container Specification.** Containers shall be fly-tight, watertight, rodent-proof, and bear-proof.

**Sec. 16-4-507. Swimming Pools**

(a) **Generally.** A swimming pool may be permitted in any district as an accessory use subject to the requirements of this Section.

(b) **Location and Setbacks.** Swimming pool locations shall conform to the standards and restrictions of the National Electrical Code. No public or private swimming pool may be located in any required front or side street setback area. No swimming pool shall be located closer than 10 feet to any interior side or rear lot line.

(c) **Enclosure.** Every swimming pool must be completely surrounded by a fence or wall not less than five feet in height, with no openings that are large enough to permit children to pass through other than gates or doors that can be fastened to protect against such entry. A dwelling house or accessory building may be used as part of such required enclosure.

(d) **Gates.** All gates or doors opening through such enclosures must be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use.

**Sec. 16-4-508. Residential Outdoor Storage**

(a) **Generally.** Outdoor storage is allowed as an accessory to residential uses, provided that it is located, configured, and buffered as set out in this Section, and:

1. The area used for outdoor storage is kept orderly, pest-free, and odor-free; and
2. The area used for outdoor storage is located in a back yard behind the principal building, or in a side yard, enclosed by a fence that is at least five feet in height.

(b) **Common Outdoor Storage.**

1. Common outdoor storage areas in residential developments shall be enclosed by a Class B Bufferyard.
2. Access to the common outdoor storage area shall be provided from a street within the development.
3. Common outdoor storage areas shall not be located such that they abut neighboring residential development.

(c) **Prohibitions.** Residential outdoor storage areas shall not be used for:

   A. Storage of garbage, except as provided in Section 16-4-506, Centralized Refuse and Recycling Containers;
   B. Storage or stockpiling of junk;
   C. Storage of materials, products, and equipment used for a home occupation or cottage industry, or for the cultivation of marijuana;
D. Storage of gasoline, other motor fuels, and comparable or greater fire or explosion hazards; or

E. Storage of items that have a high potential for generating obnoxious odors or windblown debris.

Sec. 16-4-509. Satellite Dishes and Antennae

(a) Generally. The standards of this Section apply to satellite dishes and antennae that are typically associated with residential uses. They are not applicable to facilities that are used for commercial purposes or the provision of personal wireless telecommunication services to people who do not reside on the lot on which the dish or antenna is located. Within the historic district, these standards are applied in addition to applicable design guidelines, which may be more restrictive.

(b) TV Antennae, DTV Antennae, Wireless Cable Antennae, and Satellite Dishes.

(1) The following are permitted if they are attached to a building or mounted on a mast that extends not more than 12 feet above the highest peak of the roof:

A. TV antennae;
B. DTV antennae;
C. Wireless cable antennae; or
D. Satellite dishes that are one meter or less in diameter.

(2) All cabling must be run internally (when feasible), securely attached, and as inconspicuous as practicable.

(3) Masts that are greater than 12 feet above the peak of the roof are permitted if it is demonstrated that:

A. An adequate signal cannot be obtained at a lower height;
B. The mast and antenna are lower than overhead utility lines, or set back from overhead utility lines such that a collapse of the mast will not result in contact with the lines; and
C. The mast and antenna must have an ultimate design wind speed of 155 miles per hour.

(4) Satellite dishes that are more than one meter in diameter are permitted if:

A. They are located on the ground in the rear yard and are not visible from ground-level views from public rights-of-way or abutting properties; or
B. If the dish cannot be located in the rear yard, it is located on the ground within the permitted building envelope on the side of the building, and the dish or antenna is fully screened from view from public rights-of-way with:
   i. A masonry wall; or
ii. An evergreen hedge or evergreen shrubs and understory trees.

(c) Amateur Radio Antennae. Amateur radio antennae are permitted if the following standards are met:

(1) Height, setbacks, and screening for the antenna structure shall be as provided in Table 16-4-509, Amateur Radio Antennae.

(2) Support structures that are not attached to the antenna structure are accessory structures for the purposes of this LDC.

<table>
<thead>
<tr>
<th>Lot Area</th>
<th>Max. Height</th>
<th>Min. Front Setback</th>
<th>Min. Street Side Setback</th>
<th>Min. Side and Rear Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>more than 2 ac.</td>
<td>120 ft.</td>
<td>100 ft.; or, alternatively, 20 ft. behind back wall of principal building</td>
<td>Height of antenna</td>
<td>Greater of required building setback or 70 ft.</td>
</tr>
<tr>
<td>more than 12,000 sf., up to 2 ac.</td>
<td>72 ft.</td>
<td>72 ft.; or alternatively, 15 ft. behind back wall of principal building</td>
<td>Height of antenna</td>
<td>Greater of required building setback or 25 ft.</td>
</tr>
<tr>
<td>12,000 sf. or less</td>
<td>40 ft.</td>
<td>Same as required for principal building</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sec. 16-4-510. Renewable Energy

(a) Generally. Renewable energy systems include photovoltaic arrays (solar electric panels), geothermal heating and cooling systems, and small wind energy conversion systems. They do not include the manufacture of renewable combustible fuels (e.g., ethanol or biodiesel). Within the historic district, a certificate of appropriateness may be required for renewable energy systems.

(b) Photovoltaic Arrays. Photovoltaic arrays convert sunlight into electricity. The following standards apply to photovoltaic arrays:

(1) ROOF-MOUNTS. Photovoltaic arrays may be roof-mounted on principal and accessory buildings and structures (e.g., covered walkways or covered parking spaces) in all residential districts.

(2) GROUND-MOUNTS. Ground or structure-mounted photovoltaic arrays (not mounted on buildings) shall be set back as if they were detached accessory buildings if the highest point on the panels is more than six feet above grade.

(c) Geothermal Heating and Cooling Systems. Geothermal heating and cooling systems use buried pipes to exchange heat with the ground, cooling buildings in the summer and warming them in the winter. Closed loop systems (horizontal and vertical loop systems) are permitted, provided that the loops are set back two feet from property lines and do not encroach into utility easements. Lake loop and open loop systems are not permitted.

(d) Small Wind Energy Conversion Systems. Small wind energy conversion systems are generators that convert wind into electricity. Small wind energy conversion systems are
rated for not more than 20kW of generation capacity. The following standards apply to small wind energy conversion systems:

(1) **SETBACKS AND POSITIONING.**

A. Towers that are located on single-family detached, duplex, and multiplex lots or parcels shall be located behind principal buildings (either in the rear yard or in the building envelope) and set back from the building envelopes of abutting properties one foot for each foot in height.

B. Towers that are located in other types of residential development may be located as set out in Subsection (d)(1)A., above, or in common open space areas if it is demonstrated that:

   i. They are set back at least 100 feet from rights-of-way and residential property lines that are not within the development; or

   ii. Screened from view from outside the development by buildings, topography, or landscaping.

C. No tower shall be located such that it casts a shadow between the hours of 10 AM and 3 PM on December 21, that impacts any nearby building's un-shaded roof area that is oriented within 30 degrees either side of due South.

D. Turbines shall be installed in locations that will prevent flickering shadows from being cast into the windows of buildings on nearby properties.

(2) **TURBINE BLADE CLEARANCE.** The vertical clearance of the blades of tower-mounted horizontal axis turbines shall be not less than 15 feet from the ground surface when the blades are at their lowest point.

(3) **ACCESS.** Climbing access shall be limited by either:

   A. A six-foot tall fence with a locking gate around the base of the tower; or

   B. A design that does not allow for tower climbing at heights lower than 12 feet.

(4) **NOISE.** Documentation provided by the manufacturer shall demonstrate that noise will not exceed 50 dBA at any property line at peak generation, based on the proposed location of the turbine.

(5) **REFLECTIONS.** Turbine blades shall be coated to minimize reflection.

(6) **TOWER HEIGHT AND SCREENING.** The maximum height of towers and the required screening for tall towers is set out in Table 16-4-510, *Maximum Height of Small Wind Energy Conversion Systems*. Tower height shall be measured as follows:

   A. For horizontal axis systems, to the highest point on the rotor blade at its highest point of rotation.

   B. For vertical axis systems, to the highest point of the tower or turbine, whichever is higher.
(7) **DURABILITY REQUIREMENTS.** Small wind energy conversion systems that become inoperable shall be repaired or removed by the owner or operator within 45 days of the date that they become inoperable.

| TABLE 16-4-510 |
|-----------------|------------------|
| **MAXIMUM HEIGHT OF SMALL WIND ENERGY CONVERSION SYSTEMS** | |
| Lot Area and Zoning District | Maximum Height |
| Lot area greater than 5 acres | 120 ft. |
| Lot area greater than 12,000 sf. | 75 ft. |
| All other lots | 40 ft. |

**Sec. 16-4-511. Unattended Donation Drop-Off Boxes**

(a) **Generally.** Unattended drop-off boxes for clothing or other goods to be donated to charitable organizations may be located in parking and loading areas of nonresidential uses, except in the HDG and GGG zones.

(b) **Location.**

(1) Drop-off boxes shall be set back at least five feet from front property lines.

(2) Drop-off boxes shall not obstruct parking or vehicular circulation.

(c) **Construction.** Drop-off boxes shall be constructed of waterproof and rustproof materials, and shall be secured against animals and scavenging.

(d) **Maintenance.** Materials that are deposited in drop-off boxes shall be collected on a regular schedule that is sufficient to prevent the boxes from overflowing.

**Article 5. Site Design and Natural Resource Stewardship**

**Division 5-1. Site Design, Circulation, and Connectivity**

**Sec. 16-5-100. Purpose and Application**

(a) **Generally.** Review pursuant to this Division is intended to ensure quality design, but, in general, not to require a density or intensity reduction. It is the policy of the City that the principles of this Division be applied to the maximum extent possible without imposing restrictions that reduce the density or intensity of development that is permitted on the subject property by this LDC.

(b) **Modifications to Plans.** The City may require modifications to proposed site plans or subdivision plats that otherwise conform to the standards of the LDC in order to enhance the quality of the design in accordance with the qualitative principles of this Division. The standards of this Division shall be applied and interpreted in the context of the other applicable standards that are set out in other Articles of this LDC.
Sec. 16-5-101. General Site Design Principles

(a) **Generally.** The character and environment of the City for future years will be greatly affected by the design of development. Planning, layout, and design of sites and subdivisions are of the utmost concern. Safe mobility for pedestrians and motor vehicles is important. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, protect significant views, and afford privacy for the residents. Natural features and vegetation of the area should be preserved where practicable. At larger scales, schools, parks, places of assembly, and other community facilities should be planned as an integral part of the community.

(b) **Compatibility.** The proposed site plan or subdivision plat shall be designed in a way that:

1. Provides appropriate space for buffers and transitions between incompatible land uses or obvious changes in density or intensity along side or rear lot lines;
2. In areas where such uses are located or planned in close proximity to each other, provides appropriate linkages between residential uses and retail, service, and office uses, providing access (including stair access up hillsides, where appropriate) while protecting neighborhood integrity;
3. Protects downstream property and public infrastructure from erosion and sedimentation from stormwater runoff;
4. Appropriately addresses natural hazards (See Division 5-8, Natural Hazards and Hazard Mitigation);
5. Anticipates and provides for future connections to neighboring properties that are likely to be developed, redeveloped, or expanded with similar or supportive land uses within ten years;
6. Minimizes interference with existing access to adjacent and nearby properties, unless new and improved access is provided by the proposed development; and
7. Does not materially reduce the level of service of public services or utilities that are provided to surrounding development.

(c) **Minimization of Development Impacts.** Subdivisions and site plans shall be designed to minimize grading, road construction and disturbance of the terrain, vegetation, soils, and drainageways, and to prevent soil erosion during and after construction. If necessary to achieve this, the City may require that building envelopes, no-disturbance zones, and / or height restrictions be identified on the plat or site plan, and that key areas of vegetation be planted or retained.

(d) **Future Adjacent Development.** The proposed development shall be designed in a way that shows how future development of adjacent parcels under common ownership (if any) will relate to the subject property in terms of transportation linkages and utilities.

(e) **Flood Damage Prevention.** See Chapter 18, ARTICLE VI - Flood Damage Prevention, Central City Municipal Code.
Sec. 16-5-102. Circulation and Connectivity

(a) Internal Circulation.
   (1) Internal circulation systems shall be interconnected.
   (2) Pedestrian routes shall be located along (or visible from) all streets, except that, where street connections are not feasible or desirable, trails and paths may be used to provide pedestrian connections among buildings and land uses, and between abutting properties.
   (3) If proposed development includes more than one street or more than 100 parking spaces, then the internal circulation system (e.g., new streets, sidewalks, or trails) shall be designed such that alternative travel routes are provided through the development.

(b) Cross Access / External Connections.
   (1) Cross-access shall be provided among nonresidential and mixed-use parcels where practicable, in order to manage curb cuts and balance the need for mobility with the need for access to lots and buildings.
   (2) Proposed development shall connect to existing and planned streets where necessary to complete planned street networks.
   (3) Paths, sidewalks, and trails shall not be routed through parking lots (except to make connections to buildings) if other practical alternatives exist. Where paths, sidewalks, or trails must be routed through parking lots, they shall be located between parking modules and protected by curbs.
   (4) Connections of historic stairways towards the HDG zone shall be provided or restored.

Sec. 16-5-103. On-Site Snow Storage

(a) Generally. Adequate areas for snow storage shall be provided for all development that includes on-site parking.

(b) Location and Configuration. Snow storage areas shall be located and configured to safely and efficiently melt snow, and to minimize and manage the impacts of pollutants from the resulting runoff, as follows:
   (1) Snow storage areas shall be located to drain away from pedestrian and vehicular use areas, and into vegetated buffer strips or other appropriate best management practices (“BMPs”), such that water quality is improved and off-site drainage impacts are mitigated.
   (2) Snow storage areas shall be configured so that stored snow does not obstruct any of the following:
      A. Vision clearance areas at driveways and intersections.
      B. Emergency access routes.
C. Required parking spaces,
D. Pedestrian routes.
E. Drain inlets.

(3) To the greatest extent feasible, snow storage areas shall be located in areas with solar exposure, away from streets.

**Sec. 16-5-104. Street Design**

(a) *Generally.* Streets shall be designed in accordance with the standards of this Section.

(b) *Street Plans.* Streets shall be located and configured to implement adopted plans of the City that show the general location and classification of new streets. The exact location and classification of new streets will be determined during the development review process.

(c) *Integration.* Where topography permits, new streets shall integrate into the existing street pattern so as to:

1. Address the new development’s access and circulation needs;
2. Provide a pattern of streets that facilitates mobility and provides a choice of routes and travel modes, in that existing and planned streets (including streets that are shown on pending applications for development approval on adjacent property) are continued in a similar alignment on the subject property and at a comparable right-of-way and pavement width, unless the Administrator finds that:
   A. There is a demonstrated need to change the street cross-section in order to improve the safety of the traveling public, or to provide on-street parking in areas where it is appropriate;
   B. The right-of-way or pavement section of the existing street is substandard;
   C. The continuation would create incompatibility or materially concentrate through-traffic in residential neighborhoods; or
   D. Conditions of topography or geology make the continuation of the right-of-way alignment infeasible or undesirable in terms of initial construction or continuing operations and maintenance; and
   E. When a tract is subdivided into larger than normal building lot(s) or parcel(s), such lot(s) or parcel(s) shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easements and connectors for such resubdivision; and

3. Facilitate large-scale traffic movements where arterial alignments are planned, and provide a system of circulation routes that discourages through traffic on local streets where arterial alignments are not planned.

(d) *Intersections.* Streets shall intersect as nearly at right angles as possible.
(e) **Interim Turnarounds.** Where a street will eventually be extended beyond the plat but is temporarily dead-ended, an interim turnaround may be required.

(f) **Fire Routes and Fire Safety.** Fire routes, including redundant ingress and egress points, shall be provided as appropriate to mitigate wildfire hazards.

(g) **Reserve Strips.** Reserve strips in private ownership controlling access to streets shall be prohibited.

(h) **Natural Resources.** New streets shall be located with appropriate regard for topography, waterways, wooded areas, and other natural features that are potential amenities for development, or that are locally or regionally significant for their natural resource value.

(i) **Engineering Specifications.** New streets shall have such dimensions, curbs, gutters, sidewalks, and pavements as may be required by City engineering specifications, and rights-of-way shall be sufficient to accommodate underground utility lines.

**Sec. 16-5-105. Blocks**

(a) **Generally.** Block lengths and widths shall be suitable for the uses contemplated and shall be adequate for requirements pertaining to minimum lot sizes and dimensions.

(b) **Cul-de-sac Length.** Cul-de-sacs longer than five hundred (500) feet should be avoided whenever possible.

(c) **Intersection Spacing.** Blocks shall be at least 400 feet in length and not more than 1,320 feet in length between street intersections unless adjacent to a railroad right-of-way, freeway or arterial street, or unless topographical conditions justify a variation of the requirement.

**Sec. 16-5-106. Lots**

(a) **Size and Shape.** Lots shall meet all applicable zoning requirements.

(b) **Slope.** New lots shall not be created on slopes of 30 percent or more unless a reasonable building envelope exists on a portion of the lot that has less than 30 percent slope.

(c) **Access.** All lots shall take access from a public street. Single-family detached, duplex, townhome, and multiplex lots shall take access only from local streets, or from alleys or parking courts that are connected to local streets.

(d) **Aspect Ratio.** The maximum depth of a new residential lot shall not exceed two and one-half times its width. For all other new lots, lot depth shall not exceed three times the lot width.

(e) **Lot Frontage.** The minimum lot frontage shall be the least of:

   (1) The minimum lot width required by this LDC for the particular lot type;
   (2) 50 feet for lots that do not front on a cul-de-sac; or
   (3) 35 for lots that front on a cul-de-sac.

(f) **Double-Frontage Lots.** Double-frontage lots shall be prohibited except:

   (1) Where essential to provide separation from arterial streets or state highways; or
(2) Where warranted by steep terrain.

Sec. 16-5-107. Vision Clearance Areas

(a) Generally.

(1) A vision clearance area is a triangular area on a lot or parcel in which visual obstructions are limited in the interest of public safety. The triangle is located at the intersection of two streets, a street and a driveway, or a street and a railroad.

(2) One leg of the triangle follows a property line that separates the property from the public right-of-way.

(3) One leg of the triangle is either the centerline of a residential driveway, the edge of pavement of a nonresidential or multifamily driveway, the edge of a railroad right-of-way, or another property line that separates the property from the public right-of-way.

(4) The hypotenuse is a segment that joins the ends of the two legs at a given distance from their point of intersection. Where the legs are based on property lines that bound intersections with rounded corners, the property lines are extended in a straight line to a point of intersection.

(b) Size of Vision Clearance Areas. The legs of the triangle that defines the vision clearance area shall be 30 feet long.

(c) No Obstructions. A vision clearance area shall contain no plantings, walls (other than retaining walls), structures or temporary or permanent obstructions exceeding two and one-half feet in height, measured from the top of the curb or existing grade unless said structure or obstructions are more than 80 percent open and it is demonstrated that they will not affect the safety of pedestrians or motorists.

(d) Exceptions. Retaining walls that are necessary due to steep grade may be permitted in the vision clearance area upon approval of the Administrator if it is demonstrated that they will not materially affect the safety of pedestrians or motorists.

Sec. 16-5-108. Manufactured Home Parks and Subdivisions

(a) Generally. Manufactured home parks and subdivisions shall be designed according to the minimum standards of this Section.

(b) Manufactured Home Installation.

(1) All manufactured homes shall meet the following installation specifications:

A. The average elevation of a manufactured home frame above ground elevation, measured at 90 degrees to the frame, shall not exceed four feet from the top of the foundation pad.

B. The wheels, axles, tongue, towing apparatus, and transporting lights shall be removed prior to final installation of the manufactured home.
(2) Within manufactured home subdivisions, the space between the finished grade of the property on which a manufactured home is located and the exterior edges of the finished floor of the unit must be skirted with rock, brick, or concrete masonry construction installed on a concrete footing so there is not a visible gap between the finished floor and the ground. All skirting materials shall be compatible in appearance with the home and shall allow for adequate ventilation and drainage. The skirting must be a continuous, complete, opaque, and rigid surface that lends permanency to the appearance of the manufactured home and totally screens the crawlspace under the manufactured home. The City may require removal of any skirting or other structures which do not comply with this requirement.

(c) Vehicular Circulation and Configuration of Internal Streets.

(1) Manufactured home parks and manufactured home subdivisions that are designed to accommodate more than 20 manufactured homes shall be designed with a minimum of two points of vehicular access.

(2) Generally, internal streets shall be interconnected or looped. However, where site constraints required a dead-end, a cul-de-sac turnaround shall be provided with a minimum radius of 60 feet for service and emergency vehicles.

(3) Access to all manufactured home lots (or spaces) shall be from interior streets.

(d) Perimeter Setbacks. There shall be a minimum setback of 25 feet from any portion of a manufactured home or accessory structure to any exterior boundary of the manufactured home park or subdivision.

(e) Pedestrian Circulation.

(1) An internal circulation system of sidewalks, trails, or multi-use pathways shall be installed within the manufactured home park or subdivision to provide for safe pedestrian access and circulation.

(2) A pedestrian circulation plan shall be submitted to indicate how the proposed arrangement of sidewalks, trails, or multi-use pathways will connect to:

A. Amenities of the manufactured home park or subdivision; and

B. Existing or planned sidewalks, trails, or multi-use pathways.

(f) Lighting. All interior streets and sidewalks shall be lighted for safe movement of vehicles and pedestrians at night.

(g) Solid Waste Disposal.

(1) The manufactured home park or subdivision shall provide for solid waste collection as follows:

A. By contract for curbside collection of solid waste; or
B. In centralized solid waste collection areas designed pursuant to Section 16-4-506, Centralized Refuse and Recycling Containers, which shall be provided at a rate of one container every 10 dwelling units, rounded up.

(2) If centralized solid waste collection areas are provided, their location shall be shown upon the site plan of the manufactured home park or subdivision.

(h) Storage. Detached storage buildings for use by individual residents and not exceeding 120 square feet in area are permitted on each manufactured home lot or space. All storage buildings shall be located in the rear one-half of the lot or space. Storage buildings shall be set back three feet from rear and side property lines.

(i) Fences and Accessory Structures. Fences and dog runs are allowed upon lots or spaces that are used for individual manufactured homes, provided that fences are located behind the front building line of the manufactured home and dog runs are located in the back yard.

(j) Propane Tanks. Propane or other fuel tanks must be installed safely and in accordance with all applicable safety code requirements.

(k) Accommodation of Tiny Homes or Occupied Recreational Vehicles. A manufactured home park may include areas for tiny homes or recreational vehicles (“RVs”), as follows:

(1) Such areas shall not exceed 15 percent of the total area of the manufactured home park.

(2) The period of occupancy of RVs shall not exceed 30 consecutive days. The period of occupancy of building code-compliant tiny homes is not limited.

(3) In areas designated for RVs, the following additional minimum design standards shall be met:

A. The minimum area designated for each RV space shall be not less than 3,500 square feet, with a minimum width and frontage of 35 feet.

B. The minimum depth of each RV space shall be 100 feet.

(4) All RVs parked in a manufactured home park shall be in good repair. Motorized camper vehicles shall have a valid motor vehicle inspection sticker.

(l) Buffers. A Class C Bufferyard shall be installed around manufactured home parks or subdivisions.

Division 5-2. Parking and Loading

Sec. 16-5-200. Purpose and Application of Division

(a) Purpose. The purpose of this Division is to ensure that:

(1) The visual impacts of large parking fields on the integrity of the Historic District are managed;
(2) Adequate off-street motor vehicle parking is provided for uses that are approved pursuant to this LDC, in order to:

A. Promote economic development; and

B. Protect the character and quality of life in residential neighborhoods that may be impacted by overflow parking;

(3) The utilization of parking resources is optimized where possible, based on shared parking programs that allow for the utilization of a parking lot or structure by different uses that have different peak demands for parking, and based on the “internal trip capture” of areas of the City such as the HDG and GGG zones;

(4) Appropriate parking areas and accessible routes will be provided for disabled persons when parking lots or structures are developed, expanded, or reconfigured;

(5) Adequate loading areas and (where appropriate) stacking areas are provided that do not interfere with the function of adjacent streets or on-site vehicular use areas; and

(6) Sites that are used for infill, adaptive re-use, or redevelopment have flexibility and multiple alternatives for compliance with this Division, such that investments in upgrades to real property are promoted.

(b) **Application.**

(1) **PARKING DISTRICTS.** This Division establishes parking districts in which different parking requirements apply. These districts are created in recognition of the fact that certain areas of the City cannot accommodate additional surface parking without substantial impacts on the City’s historic resources. Three parking districts are established:

A. Historic Downtown, which applies in the HDG zone;

B. Historic City, which applies in the GGG and TSL zone, and to the GPC zone within Gregory Gulch; and

C. Developing City; which applies in all other zones.

(2) **NUMBER OF REQUIRED PARKING AND LOADING SPACES.**

A. Section 16-5-201, *Calculation of Required Parking Spaces*, establishes the methodology for calculating the number of required parking spaces, including measurement of independent variables and application of available credits and reductions.

B. Section 16-5-202, *Parking Tables*, sets out the number of required parking spaces for each land use set out in the use tables, based on the parking district in which the use is located.

C. Section 16-5-203, *Required Accessible Parking Spaces*, sets out the number of parking spaces that must be designed, located, and configured as accessible
parking spaces to meet the requirements of the Americans with Disabilities Act.

D. Section 16-5-204, Required Loading Areas, sets out the minimum standards for loading areas.

E. Section 16-5-205, Special Studies, sets out the requirements for special parking studies, which are generally used to determine parking requirements for certain land uses.

F. Section 16-5-206, Credit for On-Street Parking, allows an allocation of on-street parking spaces within a development to the individual land uses in the development.

G. Section 16-5-207, Shared Parking, sets out the methodology for calculating the number of required parking spaces in locations where different types of uses create different peak parking demands on a particular parking area.

H. Section 16-5-208, Remote Parking, sets out standards for the provision of parking on a property that is off-site from the subject property.

(3) DIMENSIONS AND MARKING OF PARKING AND LOADING SPACES.

A. Section 16-5-209, Parking Space and Drive Aisle Standards, sets out the minimum dimensions for parking spaces and drive aisles.

B. Section 16-5-210, Marking of Parking Spaces and Traffic Control Devices, sets out the standards for how parking spaces must be delineated, and cross-references standards for traffic control devices.

Sec. 16-5-201. Calculation of Required Parking Spaces

(a) Generally. Section 16-5-202, Parking Tables, sets out the number of parking spaces that are required for each land use that is listed in Division 3-2, Land Use. The number of parking spaces is based on one or more independent variables, which are measured as provided in this Section.

(b) Independent Variables. The independent variables for parking calculations are measured as follows:

(1) FLOOR AREA. Where the independent variable is square feet ("sf."), the number of parking spaces is based on the number of square feet occupied by the use (or occupied by a component of the use that is specified in the table).

(2) DWELLING UNIT. Where the independent variable is a dwelling unit ("d.u."), the number of parking spaces is calculated based on the number of dwelling units. In some cases, the parking requirements are based on the number of bedrooms (per "#" BR unit) in the dwelling units.

(3) BED. Where the independent variable is “bed,” the number of parking spaces is based on the number of beds in the facility instead of the number of bedrooms or
some other measure. Per bed calculations are typically applied to uses that offer residential care or overnight accommodations with shared rooms.

4. **EMPLOYEE.** The phrase “per employee” means that the number of parking spaces is based on the number of employees (full-time and part-time equivalent) on the maximum shift, that is, the work shift in which the maximum number of employees are present.

5. **SEAT / SEAT DESIGN CAPACITY.** If the independent variable is “seat,” the number of parking spaces is based on the number of seats that are provided to guests (patrons, members, etc.). If the independent variable is “seat design capacity,” the number of parking spaces is based on the maximum seating capacity of the use as established by applicable fire code.

6. **MAXIMUM CAPACITY.** If the independent variable is “maximum capacity,” the number of parking spaces is based on the lesser of:
   A. The maximum number of people who may occupy the use pursuant to applicable fire code; or
   B. The maximum number of people who may occupy the use pursuant to other applicable regulatory or operational standards.

7. **OTHERS.** Other independent variables are measured according to their common meanings.

(c) **Rounding.** When the calculation of required parking spaces results in a fractional parking space, the result of the parking calculation shall be rounded to the nearest whole number using standard rounding techniques.

(d) **Parking Reductions.** Generally, the total number of required parking spaces is equal to the sum of the required parking for each use of a subject property. However, parking requirements may be reduced according to the methodology of Section 16-5-207, *Shared Parking.*

**Sec. 16-5-202. Parking Tables**

(a) **Generally.** Parking requirements for individual land uses shall be as set out in this Section.

(b) **Residential and Special Residential Parking Standards.** The Residential and Special Residential Land Use parking standards are set out in Table 16-5-202B, *Residential and Special Residential Parking Standards."

<table>
<thead>
<tr>
<th>TABLE 16-5-202B</th>
<th>RESIDENTIAL AND SPECIAL RESIDENTIAL PARKING STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td>Parking Zone</td>
</tr>
<tr>
<td></td>
<td>Historic Downtown</td>
</tr>
<tr>
<td>Residential Uses</td>
<td>Cottage</td>
</tr>
<tr>
<td></td>
<td>Duplex</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 16-5-202B
RESIDENTIAL AND SPECIAL RESIDENTIAL PARKING STANDARDS

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Historic City</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Live-work unit</td>
<td>2 spaces / d.u.</td>
<td>2 spaces / d.u.</td>
<td>2 spaces / d.u.</td>
</tr>
<tr>
<td>Manufactured home</td>
<td>N/A</td>
<td>2 spaces / d.u.</td>
<td>2 spaces / d.u.</td>
</tr>
<tr>
<td>Multi-family dwellings</td>
<td>2 spaces / 3+ br d.u.</td>
<td>2 spaces / 2+ br d.u.</td>
<td>2 spaces / 2+ br d.u.</td>
</tr>
<tr>
<td></td>
<td>1.5 spaces / 2 br d.u.</td>
<td>1.5 space / 1 br d.u.</td>
<td>1.5 space / 1 br d.u.</td>
</tr>
<tr>
<td></td>
<td>1 space / 1 br d.u.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multiplex</td>
<td>N/A</td>
<td>2 spaces / 2+ br d.u.</td>
<td>2 spaces / 2+ br d.u.</td>
</tr>
<tr>
<td></td>
<td>1.5 space / 1 br d.u.</td>
<td></td>
<td>1.5 space / 1 br d.u.</td>
</tr>
<tr>
<td>Single-family dwelling</td>
<td>Existing</td>
<td>2 spaces / d.u.</td>
<td>2 spaces / d.u.</td>
</tr>
<tr>
<td>Townhome</td>
<td>N/A</td>
<td>2 spaces / d.u.</td>
<td>2 spaces / d.u.</td>
</tr>
</tbody>
</table>

#### Special Residential Uses

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Historic City</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assisted living, continuing care, or congregate care</td>
<td>N/A</td>
<td>1 space / 2 units</td>
<td>2 spaces / 3 units</td>
</tr>
<tr>
<td>Boarding or rooming house</td>
<td>1 space / guest room</td>
<td>1 space / guest room</td>
<td>2 spaces, + 1 space / guest room</td>
</tr>
<tr>
<td>Convalescent center, Alzheimer’s care, memory care, nursing home</td>
<td>N/A</td>
<td>1 space / 5 beds</td>
<td>1 space / 4 beds</td>
</tr>
<tr>
<td>Group home</td>
<td>4 spaces</td>
<td>4 spaces</td>
<td>1 space / 3 occupants at max. capacity</td>
</tr>
<tr>
<td>Manufactured home park</td>
<td>N/A</td>
<td>1 space / 10 units + parking for each unit</td>
<td>1 space / 10 units, + parking for each unit</td>
</tr>
<tr>
<td>Protective care or residential rehabilitation</td>
<td>N/A</td>
<td>1 space / 2 beds</td>
<td>1 space / 2 beds</td>
</tr>
</tbody>
</table>

(c) Civic, Education, and Health Care Parking Standards. The Civic, Education, and Health Care parking standards are set out in Table 16-5-202C, Civic, Education, and Health Care Parking Standards.

### TABLE 16-5-202C
CIVIC, EDUCATION, AND HEALTH CARE PARKING STANDARDS

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Historic City</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult day care</td>
<td>1 space / 500 sf.</td>
<td>1 space / 500 sf.</td>
<td>3 spaces / 1,000 sf.</td>
</tr>
<tr>
<td>Cemetery / mausoleum</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Child care centers</td>
<td>1 space / employee</td>
<td>2 spaces / employee</td>
<td>2 spaces / employee</td>
</tr>
<tr>
<td>College or university</td>
<td>1 space / 3 students during peak use</td>
<td>3 spaces / 5 students during peak use</td>
<td>2 spaces / 3 students during peak use</td>
</tr>
<tr>
<td>Family child care home</td>
<td>N/A</td>
<td>(same as dwelling unit)</td>
<td>(same as dwelling unit)</td>
</tr>
<tr>
<td>Fire and rescue stations</td>
<td>N/A</td>
<td>1 space / 750 sf.</td>
<td>1 space / 500 sf.</td>
</tr>
<tr>
<td>Funeral home or mortuary</td>
<td>N/A</td>
<td>4 spaces / 1,000 sf.</td>
<td>greater of: 1 space / 3 seats in principal meeting space; 1 space / 21 sf. of principal meeting space (if no fixed seats)</td>
</tr>
</tbody>
</table>
### TABLE 16-5-202C
**CIVIC, EDUCATION, AND HEALTH CARE PARKING STANDARDS**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Parking Zone</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Historic City</td>
<td></td>
</tr>
<tr>
<td>Hospital or emergency room</td>
<td>N/A</td>
<td>1 space / bed + 1 space / exam or treatment room</td>
<td>Greater of 3 spaces / 2 beds or 2 spaces / exam or treatment room</td>
</tr>
<tr>
<td>Medical office or clinic</td>
<td>1 space / 250 sf.</td>
<td>1 space / 250 sf.</td>
<td>1 space / 200 sf.</td>
</tr>
<tr>
<td>Museum</td>
<td>exempt</td>
<td>1 space / 500 sf.</td>
<td>1 space / 500 sf.</td>
</tr>
<tr>
<td>Place of public assembly</td>
<td>3 spaces / 1,000 sf.</td>
<td>4 spaces / 1,000 sf.</td>
<td>greatest of: 1 space / 3 seats in principal meeting space; 1 space / 21 sf. of principal meeting space (if no fixed seats); or 1 space / 200 sf.</td>
</tr>
<tr>
<td>School, elementary or middle</td>
<td>N/A</td>
<td>1 space / 10 students at maximum capacity</td>
<td>1 space / 10 students at maximum capacity</td>
</tr>
<tr>
<td>School, high</td>
<td>N/A</td>
<td>1 space / 2 students at maximum capacity</td>
<td>1 space / 2 students at maximum capacity</td>
</tr>
<tr>
<td>School, vocational or technical</td>
<td>1 space / 3 students during peak use</td>
<td>3 spaces / 5 students during peak use</td>
<td>2 spaces / 3 students during peak use</td>
</tr>
</tbody>
</table>

(d) **Hospitality, Gaming, Recreation, and Entertainment Parking Standards.** Hospitality, Gaming, Recreation, and Entertainment parking standards are set out in Table 16-5-202D, *Hospitality, Gaming, Recreation, and Entertainment Parking Standards.*

### TABLE 16-5-202D
**HOSPITALITY, GAMING, RECREATION, AND ENTERTAINMENT PARKING STANDARDS**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Parking Zone</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Historic City</td>
<td></td>
</tr>
<tr>
<td>Bar, tavern, or nightclub</td>
<td>1 space / 150 sf.</td>
<td>1 space / 100 sf.</td>
<td>greater of 1 space / 3 seats or 15 spaces / 1,000 sf.</td>
</tr>
<tr>
<td>Bed and breakfast</td>
<td>1 space / guest room</td>
<td>1 space / guest room</td>
<td>1 space, + 1 space / guest room</td>
</tr>
<tr>
<td>Campground, RV park, resort cabins</td>
<td>N/A</td>
<td>1 space / campsite, RV space, or cabin</td>
<td>1 space / campsite, RV space, or cabin</td>
</tr>
<tr>
<td>Children’s resident camp</td>
<td>N/A</td>
<td>N/A</td>
<td>by special study</td>
</tr>
<tr>
<td>Commercial equestrian facilities</td>
<td>N/A</td>
<td>N/A</td>
<td>1 space / 4 stables</td>
</tr>
<tr>
<td>Gaming</td>
<td>1 space / 65 sf. of gaming area</td>
<td>1 space / 65 sf. of gaming area</td>
<td>N/A</td>
</tr>
<tr>
<td>Golf course or driving range</td>
<td>N/A</td>
<td>N/A</td>
<td>4 spaces per hole; or 2 spaces per tee station</td>
</tr>
<tr>
<td>Gun clubs, shooting range</td>
<td>N/A</td>
<td>N/A</td>
<td>2 spaces / 3 stations</td>
</tr>
<tr>
<td>Hostel</td>
<td>1 space / 3 beds</td>
<td>1 space / 2 beds</td>
<td>2 spaces / 3 beds</td>
</tr>
<tr>
<td>Hotel</td>
<td>1.1 spaces per guest room; plus 50% of required parking for accessory gaming, restaurant, retail, bar, tavern, or nightclub</td>
<td>1.1 spaces per guest room; plus 50% of required parking for accessory gaming, restaurant, retail, bar, tavern, or nightclub</td>
<td>1.1 spaces per guest room; plus 50% of required parking for accessory gaming, restaurant, retail, bar, tavern, or nightclub</td>
</tr>
</tbody>
</table>
## HOSPITALITY, GAMING, RECREATION, AND ENTERTAINMENT PARKING STANDARDS

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Parking Zone</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indoor amusement, recreation, or entertainment</td>
<td>seated entertainment: 1 space / 3 fixed seats or 1 space / 40 sf. of seating area; bowling alley: 4 spaces / lane + 1 space / 150 sf. of dining, billiards, or arcade; all others: 1 space / 150 sf.</td>
<td>seated entertainment: 1 space / 2 fixed seats or 1 space / 21 sf. of seating area; bowling alley: 4 spaces / lane + 1 space / 75 sf. of dining, billiards, or arcade; all others: 1 space / 75 sf.</td>
<td>seated entertainment: 1 space / 2 fixed seats or 1 space / 21 sf. of seating area; bowling alley: 4 spaces / lane + 1 space / 75 sf. of dining, billiards, or arcade; all others: 1 space / 75 sf.</td>
</tr>
<tr>
<td>Outdoor commercial recreation</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Parks with playfields / courts</td>
<td>N/A</td>
<td>2 spaces / court + 20 spaces / play field + 1 space / 10 lf. of bleacher seating</td>
<td>2 spaces / court + 20 spaces / play field + 1 space / 10 lf. of bleacher seating</td>
</tr>
<tr>
<td>Motorsports park / staging area</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Passive parks, playgrounds</td>
<td>exempt</td>
<td>exempt</td>
<td>1 space / 750 sf. of playground area; 1 space / picnic table</td>
</tr>
<tr>
<td>Recording / television studio</td>
<td>by special study</td>
<td>by special study</td>
<td>by special study</td>
</tr>
<tr>
<td>Restaurant</td>
<td>1 space / 150 sf. of customer service area</td>
<td>1 space / 100 sf. of customer service area</td>
<td>1 space / 50 sf. of customer service area</td>
</tr>
<tr>
<td>Sexually-oriented business</td>
<td>Retail: 1 space / 250 sf.; entertainment: 1 space / 100 sf.</td>
<td>Retail: 1 space / 250 sf.; entertainment: 1 space / 100 sf.</td>
<td>N/A</td>
</tr>
<tr>
<td>Stadium or amphitheater</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Zoo</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### General Commercial and Motor Vehicle Parking Standards

The General Commercial and Motor Vehicle parking standards are set out in Table 16-5-202E, *General Commercial and Motor Vehicle Parking Standards*.

## TABLE 16-5-202E

<table>
<thead>
<tr>
<th>General Commercial Uses</th>
<th>Parking Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Historic Downtown</td>
</tr>
<tr>
<td>Heavy retail</td>
<td>N/A</td>
</tr>
<tr>
<td>Kennel (all types)</td>
<td>N/A</td>
</tr>
<tr>
<td>Office, general</td>
<td>1 space / 600 sf.</td>
</tr>
<tr>
<td>Pawnbroker or check cashing</td>
<td>1 space / 500 sf.</td>
</tr>
<tr>
<td>Retail sales and services</td>
<td>1 space / 500 sf.</td>
</tr>
<tr>
<td>Self-service laundries</td>
<td>N/A</td>
</tr>
<tr>
<td>Veterinarian, large animal</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### TABLE 16-5-202E
**GENERAL COMMERCIAL AND MOTOR VEHICLE PARKING STANDARDS**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Parking Zone</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Veterinarian, small animal</td>
<td>N/A</td>
<td>1 space / 300 sf.</td>
<td>1 space / 300 sf.</td>
</tr>
<tr>
<td>Wholesale</td>
<td>N/A</td>
<td>1 space / 1,000 sf.</td>
<td>1 space / 1,000 sf.</td>
</tr>
</tbody>
</table>

**Motor Vehicle Uses**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Parking Zone</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heavy truck / RV parking lot</td>
<td>N/A</td>
<td>N/A</td>
<td>exempt</td>
</tr>
<tr>
<td>Motor vehicle repair, heavy</td>
<td>N/A</td>
<td>N/A</td>
<td>1.5 spaces / bay or other area designated for vehicle repairs</td>
</tr>
<tr>
<td>Motor vehicle repair, light</td>
<td>N/A</td>
<td>3 spaces / service bay</td>
<td>3 spaces / service bay</td>
</tr>
<tr>
<td>Motor vehicle sales or rental</td>
<td>exempt</td>
<td>1 space / 500 sf.</td>
<td>3 spaces / 1,000 sf.</td>
</tr>
<tr>
<td>Motor vehicle wash</td>
<td>N/A</td>
<td>1 space per bay; or 4 spaces per conveyor</td>
<td>1 space per bay; or 4 spaces per conveyor</td>
</tr>
<tr>
<td>Parking lot, surface</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
</tr>
<tr>
<td>Parking structure</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
</tr>
</tbody>
</table>

(f) **Marijuana Parking Standards.** The Marijuana parking standards are set out in Table 16-5-202F, *Marijuana Parking Standards*.

### TABLE 16-5-202F
**MARIJUANA PARKING STANDARDS**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Historic Downtown</th>
<th>Parking Zone</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical marijuana center&quot;</td>
<td>1 space / 500 sf.</td>
<td>3 spaces / 1,000 sf.</td>
<td>1 space / 250 sf.</td>
</tr>
<tr>
<td>Medical marijuana-infused product manufacturer</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Optional premises cultivation operation</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Medical marijuana testing facility</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Retail marijuana store</td>
<td>1 space / 500 sf.</td>
<td>3 spaces / 1,000 sf.</td>
<td>1 space / 250 sf.</td>
</tr>
<tr>
<td>Retail marijuana cultivation facility</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Retail marijuana products manufacturing facility</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Retail marijuana testing facility</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(g) **Industry, Transportation, Storage, and Disposal Parking Standards.** The Industry, Transportation, Storage, and Disposal parking standards are set out in Table 16-5-202G, *Industry, Transportation, Storage, and Disposal Parking Standards*. 
### TABLE 16-5-202G

**INDUSTRY, TRANSPORTATION, STORAGE, AND DISPOSAL PARKING STANDARDS**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Parking Zone</th>
<th>Historic Downtown</th>
<th>Historic City</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Industry Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extraction (minerals)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>special study</td>
</tr>
<tr>
<td>Extraction (oil and gas)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>special study</td>
</tr>
<tr>
<td>Heavy industry</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>special study</td>
</tr>
<tr>
<td>Light industry</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>3 spaces / 1,000 sf.</td>
</tr>
<tr>
<td>Salvage Yard</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>4 spaces / acre of yard</td>
</tr>
<tr>
<td><strong>Transportation and Storage Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Airport / heliport</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>special study</td>
</tr>
<tr>
<td>Helistop</td>
<td>N/A</td>
<td>4 spaces / pad</td>
<td>4 spaces / pad</td>
<td></td>
</tr>
<tr>
<td>Heavy logistics</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>1 space / 5,000 sf.</td>
</tr>
<tr>
<td>Outdoor storage yard</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>4 spaces / acre of yard</td>
</tr>
<tr>
<td>Self-storage</td>
<td>N/A</td>
<td>2 spaces + 1 space / 10,000 sf.</td>
<td>2 spaces + 1 space / 10,000 sf.</td>
<td></td>
</tr>
<tr>
<td>Transit center</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
<td>special study</td>
</tr>
<tr>
<td><strong>Disposal Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solid waste transfer station</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>special study</td>
</tr>
<tr>
<td>Solid waste disposal</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>special study</td>
</tr>
</tbody>
</table>

(h) *Utility and Communications Parking Standards.* The Utility and Communications parking standards are set out in Table 16-5-202H, *Utility and Communications Parking Standards.*

### TABLE 16-5-202H

**UTILITY AND COMMUNICATIONS PARKING STANDARDS**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Parking Zone</th>
<th>Historic Downtown</th>
<th>Historic City</th>
<th>Developing City</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utility Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utility facilities, City</td>
<td>exempt</td>
<td>exempt</td>
<td>1 per 1.5 employees on max. shift</td>
<td></td>
</tr>
<tr>
<td>Utility facilities, minor</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
<td></td>
</tr>
<tr>
<td>Utility facilities (110 kV+ lines)</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
<td></td>
</tr>
<tr>
<td><strong>Communications Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communications Tower</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
<td></td>
</tr>
<tr>
<td>Stealth Tower</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
<td></td>
</tr>
<tr>
<td>Attached Facilities</td>
<td>exempt</td>
<td>exempt</td>
<td>exempt</td>
<td></td>
</tr>
</tbody>
</table>
(i) **Agricultural Parking Standards.** The Agricultural parking standards are set out in Table 16-5-2021, *Agricultural Parking Standards.*

### TABLE 16-5-2021 AGRICULTURAL PARKING STANDARDS

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Parking Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Historic Downtown</td>
</tr>
<tr>
<td>Commercial crop or animal production</td>
<td>N/A</td>
</tr>
<tr>
<td>Community garden</td>
<td>exempt</td>
</tr>
</tbody>
</table>

Sec. 16-5-203. **Required Accessible Parking Spaces**

(a) **Generally.** Parking spaces that are accessible to disabled persons ("ACCESSIBLE PARKING SPACES") shall be provided as set out in this Section. Such spaces shall be counted toward the total number of spaces that are provided for the purposes of compliance Section 16-5-202, *Parking Tables*, after applicable reductions.

(b) **Number of Required Spaces.** Accessible Parking Spaces shall be provided as set out in Table 16-5-203, *Number of Accessible Parking Spaces*, or as required by the most current revision of the ADA Standards for Accessible Design, Section 208 (as may be amended or re-titled from time to time), whichever requires more parking spaces for disabled persons.

### TABLE 16-5-203 NUMBER OF ACCESSIBLE PARKING SPACES

<table>
<thead>
<tr>
<th>Number of Parking Spaces Required by this Division</th>
<th>Number of Accessible Spaces</th>
<th>Number of Spaces that Must be Van Accessible</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 25</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>26 to 50</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>51 to 75</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>76 to 100</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>101 to 150</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>151 to 200</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>201 to 300</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>301 to 400</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>401 to 500</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>501 to 1,000</td>
<td>2 percent of total number of parking spaces</td>
<td>1 out of 8 accessible parking spaces, rounded up</td>
</tr>
<tr>
<td>1,001 and over</td>
<td>20, plus 1 for each 100 parking spaces in excess of 1,000 parking spaces</td>
<td>1 out of 8 accessible parking spaces, rounded up</td>
</tr>
</tbody>
</table>

Sec. 16-5-204. **Required Loading Areas**

(a) **Generally.** New or substantially altered buildings or structures, which are to be occupied by uses that receive and distribute material or merchandise by truck shall include off-street loading berths or areas in sufficient quantity and size to adequately address the needs of the particular use.
(b) **Use of Parking Areas.** Off-street parking areas that are used to fulfill the requirements of this Division shall not be used for loading and unloading operations except during off-peak parking periods when such areas are not necessary to address parking demand.

(c) **Exception for HDG Zone.** Off-street loading is not required in the HDG zone.

**Sec. 16-5-205. Special Studies**

(a) **Generally.**

(1) Some of the uses that are listed in the tables set out in Section 16-5-202, *Parking Tables*, have nonlinear or widely varying parking demand characteristics. Accordingly, their parking requirements are listed in the tables as “special study.” Required parking for these uses shall be established according to the standards of this Section.

(2) Special studies may also be submitted to support a request to reduce the number of required parking spaces to less than that set out in Section 16-5-202, *Parking Tables*, due to the nature of the operations or specific location of a proposed use. Such special studies shall include and support all requested reductions in parking.

(b) **Special Study Requirements.**

(1) A special study shall be conducted by a qualified transportation planner or traffic engineer at the Applicant’s expense. The Administrator shall develop and maintain a list of qualifications or certifications that are acceptable to the City for this purpose.

(2) The special study shall provide:

A. A peak parking analysis of at least three functionally comparable uses.

B. Documentation regarding the comparability of the referenced uses, including: name, function, location, gross floor area, parking availability, access to transportation network (including vehicular, bicycle, pedestrian, and transit), use restrictions, and other factors that could affect the parking demand.

(c) **Approval of Special Study.**

(1) The City may rely upon the special study or may request additional information or analysis, including, but not limited to alternative or new data points, or consideration of additional or alternative factors related to comparability or peak demand, as supported by sound engineering principles.

(2) As a condition of approval of a special study, the City may require that land be reserved or land-banked for additional parking if there is a demonstrably high probability the use could change, resulting in a higher demand for parking.
Sec. 16-5-206. Credit for On-Street Parking

In mixed-use developments that provide new on-street parking along internal streets, the on-street parking may be credited to particular uses. The number of parking spaces to be credited equals \( Sa \times P \), where:

\[
Sa = \text{the area of the subject property divided by the developed and buildable area of the mixed-use development in which it is located};
\]

and

\[
P = \text{the total parking that is available on-street in the mixed-use development}.
\]

Sec. 16-5-207. Shared Parking

(a) Generally. In locations where a mix of uses allows for synergy with respect to the utilization of parking spaces due to differences in the timing of peak parking demand, the City may reduce the required number of parking spaces according to the provisions of this Section.

(b) Shared Parking Table. Shared parking allows a reduction in the total number of required parking spaces when a subject property is occupied by two or more uses that generally do not have peak parking demands at the same time. When any land or building is used for two or more categories of uses that are listed below, the minimum total number of required parking spaces may be determined by the following procedures:

1. Multiply the minimum required parking for each individual use, excluding spaces reserved for use by specified individuals or classes of individuals, by the appropriate percentage listed in Table 16-5-207, Shared Parking Table, for each of the designated time periods.

2. Calculate a sum for all uses for each of the five time periods (each of the columns). The minimum parking requirement is the highest of these sums, plus any reserved spaces that were excluded from the calculation in the first step. Figure 16-5-207, Illustrative Shared Parking Credit Calculation, provides an example of how to use Table 16-5-207, Shared Parking Table, to calculate required parking.

<table>
<thead>
<tr>
<th>Use</th>
<th>Night (12 AM to 6 AM)</th>
<th>Weekday Day (6 AM to 6 PM)</th>
<th>Evening Day (6 PM to 12 AM)</th>
<th>Weekend Day (6 AM to 6 PM)</th>
<th>Evening Day (6 PM to 12 AM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>100%</td>
<td>60%</td>
<td>90%</td>
<td>80%</td>
<td>90%</td>
</tr>
<tr>
<td>Office</td>
<td>5%</td>
<td>100%</td>
<td>10%</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>Retail / Commercial</td>
<td>5%</td>
<td>70%</td>
<td>90%</td>
<td>100%</td>
<td>70%</td>
</tr>
<tr>
<td>Commercial Lodging</td>
<td>80%</td>
<td>80%</td>
<td>100%</td>
<td>50%</td>
<td>100%</td>
</tr>
<tr>
<td>Restaurant</td>
<td>10%</td>
<td>50%</td>
<td>100%</td>
<td>50%</td>
<td>100%</td>
</tr>
<tr>
<td>Entertainment</td>
<td>10%</td>
<td>40%</td>
<td>100%</td>
<td>80%</td>
<td>100%</td>
</tr>
<tr>
<td>All Others</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>
FIGURE 16-5-207
ILLUSTRATIVE SHARED PARKING CREDIT CALCULATION

EXAMPLE: A mixed-use building has 4 two-bedroom apartments, 5,000 square feet of office space, and 5,000 square feet of retail space. In the Developing City parking district, these uses would separately require 43 parking spaces \((4 \text{ du.} \times 2 \text{ sp.} / \text{unit}) + (5,000 \text{ sf.} \times (3 \text{ sp.} / 1,000 \text{ sf.})) + (5,000 \text{ sf.} \times (1 \text{ sp.} / 250 \text{ sf.})) = 43\). However, combined, they could share 34 parking spaces, as shown in the calculation below.

<table>
<thead>
<tr>
<th>Use</th>
<th>Weekday</th>
<th>Weekend</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Night (12 AM to 6 AM)</td>
<td>Day (6 AM to 6 PM)</td>
</tr>
<tr>
<td>Residential (8 spaces)</td>
<td>100% x 8 = 8</td>
<td>60% x 8 = 4.8(^1)</td>
</tr>
<tr>
<td>Office (15 spaces)</td>
<td>5% x 15 = 1</td>
<td>100% x 15 = 15</td>
</tr>
<tr>
<td>Retail / Commercial (20 spaces)</td>
<td>5% x 20 = 1</td>
<td>70% x 20 = 14</td>
</tr>
<tr>
<td>Commercial Lodging</td>
<td>80% x 0 = 0</td>
<td>80% x 0 = 0</td>
</tr>
<tr>
<td>Restaurant</td>
<td>10% x 0 = 0</td>
<td>50% x 0 = 0</td>
</tr>
<tr>
<td>Gaming and Entertainment</td>
<td>10% x 0 = 0</td>
<td>40% x 0 = 0</td>
</tr>
<tr>
<td>All Others</td>
<td>100% x 0 = 0</td>
<td>100% x 0 = 0</td>
</tr>
<tr>
<td>COLUMN TOTALS</td>
<td>10</td>
<td>34(^2)</td>
</tr>
</tbody>
</table>

**TABLE NOTES:**

1. Round to the nearest 1/10\(^{th}\) space, then round up the column total.
2. The largest number, 34, is the number of parking spaces that are required. In this example, the number of required parking spaces is reduced by 21 percent due to the optimization of the peak use periods in the parking lot.

(c) Special Shared Parking Study.

1. In the alternative to the methodology in Table 16-5-207, Shared Parking Table, an Applicant may submit a shared parking study to demonstrate that the parking that is required to serve a certain mix of uses is less than the sum of the parking requirements for each individual use.

2. The special study shall be conducted by a qualified transportation planner or traffic engineer at the Applicant’s expense (the Administrator shall develop and maintain a list of qualifications and / or certifications that are acceptable to the City for this purpose), and shall:
   - Review peak parking demand periods for the proposed uses during a 24-hour weekday and each weekend day, and shall propose a required number of parking spaces based on the combined peak hour demand for parking.
   - Provide data on the following:
     - The sensitivity of the proposed uses to change. For example, a center with no restaurant could have significant changes in parking if a restaurant was added.
     - Similar mixes of uses in other areas of the region.
     - Degree of variability of parking for individual uses (average, range, and standard deviation).
(3) The City may require a reserved open area if it finds that the risk of parking needs changing over time so warrants. Once the project is occupied and well-established, if there is a surplus of parking, the Applicant may petition for additional development capacity and parking using the reserved area.

(d) Shared Parking Among Lots Under Different Ownership. A shared parking reduction may be applied to uses on several properties that are under different ownership, provided that long-term maintenance of the arrangement is assured by:

(1) An approved parking plan that provides for interconnected parking lots and a pedestrian circulation system that connects the various uses and parking areas, such that it is convenient to move among the various uses; and

(2) Recorded access and parking easements, approved as to form by the City Attorney, that provide, at a minimum, for:
   A. Cross-access among the parking areas and connections that allow for parking by any of the different uses anywhere among the parking areas;
   B. Allocation of maintenance responsibilities;
   C. A right of enforcement by the City; and
   D. A requirement for City consent in order to terminate the easements.

Sec. 16-5-208. Remote Parking

(a) Generally. For nonresidential development in the HDG, GGG, TSL, LCC, and GPC zones, for residential development in the HDG or GGG zone, and for single-family residential development in the MDR zone on lots that the Administrator determines cannot reasonably provide on-site parking, remote parking may be provided in lieu of on-site off street parking, pursuant to the standards of this Section.

(b) Location of Remote Parking. The distance from the boundary of the subject property to the boundary of the remote parking spaces shall not exceed 600 ft.

(c) Parking Plan Required.

(1) All applicants that propose remote parking shall provide a parking plan that addresses the following:
   A. The location of the parking area and the distance between it and the subject property;
   B. The path of pedestrian travel (e.g., sidewalk, across certain streets, parking lot(s), trails) between the buildings or land uses and the remote parking facility;
   C. The total number of parking spaces that are required for the subject property;
   D. The number of proposed remote parking spaces; and
E. Information on total parking demand served by the remote parking facility, including:
   i. The location and names of all buildings, structures, or land uses for which the parking spaces are provided;
   ii. Days and hours of operation of the uses that utilize the facility;
   iii. Peak days and hours of operation of such uses;
   iv. Parking calculations for each use that utilizes the facility, including the measurement of the independent variable use to calculate required parking;
   v. Shared parking calculations, if used; and
   vi. A loading and unloading plan for the Subject Property and the remote parking facility; and

F. If required by the Administrator, a study by a parking or traffic consultant to demonstrate that there is no substantial conflict (e.g., materially increased risk of vehicular-pedestrian conflict or unreasonable traffic congestion) inherent in the proposed remote parking arrangement.

(d) Required Legal Documentation. An executed legal agreement, in a form acceptable to the City Attorney, by and among the owners of the properties for which remote parking arrangements are proposed, shall include at a minimum the following:

   (1) A legal description of the affected properties;
   (2) Allocation of responsibilities for permanent improvement and maintenance of off-site parking areas;
   (3) Termination only if the City consents, upon demonstration by the applicant to the City that the affected uses fully comply with minimum parking requirements in the absence of the remote parking area(s) provided for in the agreement;
   (4) Recognition of the authority of the City to base decisions regarding development approvals for the properties that are subject to the agreement upon the remote parking provided for in the agreement, and to seek enforcement against any or all parties if the parking is not provided according to the terms of the agreement; and

(e) Recording. A copy of the approved parking plan and fully-executed legal agreement shall be recorded at the office of County Clerk, and shall thereafter be binding upon the applicants, their heirs, successors, and assigns. Such recordation shall thereafter limit and control the issuance of permits and certificates and the operation of all properties that are subject to the parking plan.

Sec. 16-5-209. Parking Space and Aisle Standards

(a) Standard Parking Space Dimensions. Standard parking spaces shall have the following dimensions:
(1) Parallel parking spaces: 8 ft. stall width x 22 ft. stall length.

(2) Angled parking spaces (30 to 90 degrees from centerline in direction of travel): 8.5 ft. stall width x 18 ft. stall length.

(b) Compact Parking Spaces. Up to 10 percent of required parking spaces may be “compact parking spaces.” Compact parking spaces may only be provided in angled configurations. The dimensions of a compact parking space are 8 ft. stall width x 15 ft. stall length.

(c) Valet Parking Spaces.

(1) The dimensions of a valet parking space may be reduced to a 7.5 ft. stall width x 18 ft. stall length.

(2) Valet parking spaces may be designed in tandem configurations.

(3) Parking areas that are striped for valet parking shall be posted “valet parking only.”

(4) If valet parking is used to increase the parking yield of a subject property to conform to the minimum parking requirements of this LDC, then valet parking shall not be discontinued unless:

   A. The parking area is restriped according to the standards of this Section; and

   B. Additional parking is provided as necessary to bring the use of the subject property into conformance with the minimum requirements of this LDC.

(d) Accessible Parking Space Dimensions, Design, and Location.

(1) The design and location of disabled parking spaces shall be as required by the 2010 ADA Standards for Accessible Design, Section 502 (however subsequently titled or numbered) (“ADA 502”), at the time the parking space is striped;

(2) Accessible routes to and from accessible parking spaces shall be provided as required by ADA 502, at the time the parking spaces are striped (however subsequently titled or numbered); and

(3) Accessible routes shall be graded according to the standards of the ADA 502, at the time the parking lot is developed or any time it is re-graded.

(e) Vertical Clearance. A vertical clearance of not less than eight feet shall be provided over all parking spaces. Additional clearance shall be provided for larger vans, sport utility vehicles, and light trucks that require such clearance if parking demand from such vehicles is anticipated. All parking structure entrances shall include an overhead bar to alert oversized vehicles regarding vertical clearance.

(f) Parking Aisle Widths. Parking aisles shall be dimensioned as shown in Table 16-5-209, Minimum Parking Aisle Width.
TABLE 16-5-209
MINIMUM PARKING AISLE WIDTH

<table>
<thead>
<tr>
<th>Measurement</th>
<th>0° / Parallel Parking</th>
<th>30°</th>
<th>45°</th>
<th>60°</th>
<th>90°</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. One-Way Drive Aisle Width</td>
<td>13 ft.</td>
<td>12 ft.</td>
<td>15 ft.</td>
<td>18 ft.</td>
<td>24 ft.</td>
</tr>
<tr>
<td>Min. Two-Way Drive Aisle Width</td>
<td>19 ft.</td>
<td>20 ft.</td>
<td>21 ft.</td>
<td>23 ft.</td>
<td>24 ft.</td>
</tr>
</tbody>
</table>

Sec. 16-5-210. Marking of Parking Spaces and Traffic Control Devices

(a) Generally. All parking spaces shall be marked and maintained on the pavement and any directional markings or signs shall be installed and maintained as required by the approved parking plan.

(b) Accessible Parking Spaces. Each accessible parking space shall be marked with a free-standing or wall mounted sign using the standard symbol that signifies the space as designed to be accessible to disabled persons, along with the phrase "ACCESSIBLE PARKING." In addition, the standard symbol shall be painted on the pavement within the parking space. (See Figure 16-5-210, Illustrative Accessible Parking Spaces.) This requirement shall automatically change to conform to any amendments to the 2010 ADA Standards for Accessible Design (however subsequently titled or numbered) that may be in effect at the time the parking space is striped.

(c) Bumpers. Wheel bumpers or curbs that serve a comparable function shall be installed in all parking spaces at the perimeter of the parking lot. The City may require the installation of wheel bumpers in other locations if they are needed to prevent traffic from cutting across the parking lot outside of the drive aisles.

(d) Traffic Control Devices. All traffic control devices (signs, markings, and signals) shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), latest edition.
Division 5-3. Stormwater Management

Sec. 16-5-300. Intent and Limitation of Liability

(a) *Intent.* The intent of this Division is to enhance the function and durability of, and water quality within, the City’s drainage ways and subsequent receiving waters in order to promote the safety, public health, convenience, and general welfare of the City. This Division establishes requirements for:

(1) Stormwater quantity and quality control as part of new development and redevelopment, to prevent impacts on the City’s stormwater management system and receiving waters from runoff leaving new development and redevelopment.

(2) Stormwater quality permits for construction activities and development to prevent soil erosion, sedimentation, and other pollutants from leaving construction sites.

(b) *Limitation of Liability.* Any person who undertakes or causes to be undertaken any activity which involves disturbance of the land’s surface shall ensure that soil erosion, sedimentation, increased pollutant loads, and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The requirements of this Section are the minimum standards, and compliance with the same shall not relieve such person from the duty of taking all measures necessary to minimize pollution of receiving waters.

Sec. 16-5-301. General Standards for the Use of Cut and Fill

(a) *Generally.* Cut and fill shall be minimized, but where permitted, shall be designed and performed according to the standards of this Section.

(b) *Minimization.* Cut and fill shall be minimized in one or more of the following ways:

(1) **Streets, Driveways, and Hard-Surfaced Trails.** Streets, driveways, and hard-surfaced trails shall follow existing contours, and shall be designed to minimize cuts and fill in a manner that is consistent with safe geometric design.

(2) **Limitations on Extent.** On hillsides, grading shall generally be limited to the area within not more than 10 feet (horizontally) from the building foundation, in order to minimize its impact on existing slopes and vegetation. The Administrator may authorize additional impacted area upon good cause shown and supported by commonly accepted engineering principles.

(c) *Mitigation.* The impacts of cut and fill on slopes shall be mitigated according to the following standards:

(1) **Re-grading.**

A. Where feasible, sites shall be re-graded as a stable “natural” slope.

B. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes with a grade that is steeper than 50 percent shall be justified by soils reports or engineering data.
(2) **BENCHING / TERRACING.** Large-scale grade changes shall be divided into a series of benches and/or terraces, as follows:

A. Terraces that are at least six feet in width shall be provided at not more than 15-foot vertical intervals on all cut or fill slopes, in order to control surface drainage and debris.

B. Terraces shall be accessible for cleaning and maintenance. Swales or ditches shall be provided on terraces as necessary to provide drainage.

C. Parking areas that are planned for steep slopes shall be located on terraces that designed to follow site contours.

(3) **SCREENING.** Where cuts are necessary, they shall be screened in one or more of the following ways:

A. Rock walls;

B. Landscaping;

C. Building walls; or

D. Building placement.

(4) **STABILIZATION AND PLANTING.**

A. Exposed areas of cut and fill shall be planted with at least two genera of native plants that are selected for their ability to stabilize the slope and prevent erosion.

B. Generally, planting shall be timed within 90 days of the completion of final grading unless other construction activities are planned within 90 days of that date. However, if final grading is completed between October 1 and March 15, planting is required by no later than June 15.

**Division 5-4. Landscaping and Buffering**

**Sec. 16-5-400. Purpose and Application of Division**

(a) **Generally.** This Division includes standards for three categories of landscaping:

(1) **GENERAL LANDSCAPING.** General landscaping is the landscaping that is required regardless of the location of the subject property with respect to other uses.

(2) **PARKING LOT LANDSCAPING.** Parking lot landscaping is the landscaping within and on the corners of surface parking lots.

(3) **BUFFERYARD LANDSCAPING.** Bufferyard landscaping is contextual. That is, bufferyards are required (or not) based on the zoning, development type, or right-of-way type that adjoins the subject property. Bufferyards may be required along zone boundaries, between different uses, along rights-of-way, or along the boundaries of parking lots. Generally, bufferyards must be provided as required by Section 16-5-
403, **Bufferyard Landscaping.** However, other sections of this LDC may require additional buffering (e.g., limited or conditional use standards).

(b) **Applicability of Standards; General Exceptions.**

(1) Except as provided in subsection (b)(2), the standards of this Division apply to all new development, redevelopment, or substantial improvements to existing sites or buildings.

(2) The following are exceptions to the standards of this Division:

A. Individual lots that are used for existing single-family or duplex dwellings.

B. Modifications to nonresidential buildings where the redevelopment does not expand the use by more than 10 percent or 3,000 square feet, whichever is less.

(c) **Landscape Calculations.** No area of a subject property shall be counted more than once for the purposes of applying landscaping requirements.

### Sec. 16-5-401. General Landscaping

(a) **Generally.** General landscaping is required as set out in this Section.

(b) **Applicability.** The standards of this Section apply in all zones except HDG and GGG, and except as provided in Section 16-5-400(b)(2).

(c) **General Landscape Area.**

(1) The general landscape area is the permeable area of the subject property, except for the following areas:

A. Parking lot landscape areas (see Sec. 16-5-402);

B. Bufferyards (see Sec. 16-5-403);

C. Areas within and extending up to 15 feet from play fields and other outdoor recreation areas, the use of which would be diminished by the presence of trees;

D. Areas within designated outdoor storage or work areas within the IND zone;

E. Areas within irrigation ditch easements, or within 30 feet of the ditch bank if the easement does not have delineated boundaries;

F. Areas used for gardens;

G. Wetlands and waterbodies;

H. Stormwater detention facilities;

I. Wooded areas;

J. Areas where ground-mounted solar panels (of any type) are installed, and any areas around them that must be kept clear of vegetation to avoid shading of the panels in order to optimize their use;
K. Permeable areas that are less than 80 square feet that are enclosed by any combination of buildings, structures, impermeable surfaces such as asphalt or concrete, or any of the areas described in subsection (C)(1), above; and

L. Areas in which the soils or topography are not suitable for the establishment and growth of healthy trees.

(2) The following areas are counted towards the land area that is subject to the tree planting requirements of this Section, but tree planting will not be required in these areas:

A. Areas in which tree planting would materially increase the risks from wildfire; and

B. Areas within 10 feet of a building.

(d) Waiver or Reduction of Tree Planting Requirements. The Administrator may waive or decrease planting requirements if the total number of trees that are required exceeds the number that can be reasonably planted on the subject property without materially increasing wildfire risks, compromising the health of the trees, or diminishing the use of the property.

(e) Tree Planting Requirements. Trees shall be planted in all general landscaping areas at a rate of not fewer than one tree per 1,750 square feet of general landscaping area, with fractions dropped.

(f) Groundcovers. Groundcovers shall be planted as necessary to stabilize slopes and soils.

Sec. 16-5-402. Parking Lot Landscaping

(a) Generally. Parking lot landscaping is required as set out in this Section.

(b) Applicability. The standards of this Section apply to surface parking lots associated with all nonresidential and multifamily uses, except parking lots that contain fewer than 16 parking spaces, and except in the HDG and GGG zones.

(c) Parking Lot Landscape Areas. Landscaping is required in all of the following areas:

(1) At the ends of parking aisles, planted in endcap islands that are not less than nine feet wide and 36 feet long (18 feet where the parking module does not adjoin another parking module), with 10 foot curb radii on the side that faces outward from the parking aisle;

(2) Between the endcaps of parking rows, either:

A. Planted in interior islands that are not less than nine feet wide and 36 feet long (18 feet where the parking module does not adjoin another parking module), with 5 foot curb radii at both ends; or

B. Planted in interior landscape strips that are at least five feet wide that are located between parking modules, or at the edges of parking modules where parking modules do not adjoin each other.
(3) At the corners of parking lots, planted in corner islands, which are the area defined by the extension of the edges of intersecting parking modules.

(d) Spacing of Parking Lot Landscape Areas. Parking lot landscape areas shall be spaced so that no parking lot landscape area is more than 100 feet from any other parking lot landscape area, measured from curb to curb.

(e) Planting Requirements.

(1) Each endcap island, interior island, and corner shall be planted with a minimum of one canopy tree or two understory trees.

(2) Each landscape strip shall be planted with not less than one canopy tree or two understory trees per 75 linear feet. Formal arrangement of the trees in the landscape strip is not required.

(3) The Administrator may waive the planting requirements of this subsection, or allow the landscaping to be planted in an alternative location on the subject property (if reasonably available), for any particular landscape area or portion thereof if:

A. The tree or trees will interfere with vision clearance areas that are necessary for safe ingress to or egress from the parking lot; or

B. The landscape area is not conducive to the healthy growth of trees (e.g., due to topography, solar orientation, or soil types).

(f) Integration with Stormwater System. The landscape areas described in this Section may be integrated into the subject property’s stormwater system.

Sec. 16-5-403. Bufferyard Landscaping

(a) Generally. Bufferyard landscaping is required as set out in this Section, and as set out in this LDC for specific uses or situations.

(b) Applicability. The standards of this Section apply to all required bufferyards.

(c) Bufferyard Classifications. For the purposes of this LDC, there are five classifications of bufferyards, as set out in Table 16-5-403.A., Bufferyard Classifications.

<table>
<thead>
<tr>
<th>Bufferyard Classification</th>
<th>Width</th>
<th>Canopy Trees</th>
<th>Understory Trees</th>
<th>Evergreen Trees</th>
<th>Shrub</th>
<th>Berm, Fence, or Wall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A</td>
<td>5 ft.</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>10</td>
<td>Not required</td>
</tr>
<tr>
<td>Class B</td>
<td>10 ft.</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>20</td>
<td>Not required</td>
</tr>
<tr>
<td>Class C</td>
<td>25 ft.</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>30</td>
<td>3 ft. high</td>
</tr>
<tr>
<td>Class D</td>
<td>30 ft.</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>30</td>
<td>6 ft. high</td>
</tr>
<tr>
<td>Parking Boundary</td>
<td>5 ft.</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>40</td>
<td>3 ft. high allowed as alternative to shrubs</td>
</tr>
</tbody>
</table>
(d) **Zone Boundary Bufferyards.** Bufferyards are required between the zone boundaries as set out in Table 16-5-403.B., *Zone Boundary Bufferyards.* Zone boundary bufferyards are not cumulative with bufferyards that are required by limited or conditional use standards. If a limited or conditional use standard requires a larger bufferyard along a zone boundary, then only the larger bufferyard shall be provided.

<table>
<thead>
<tr>
<th>Zone of Subject Property</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>LCC</th>
<th>Other Zones</th>
</tr>
</thead>
<tbody>
<tr>
<td>LCC</td>
<td>Class A</td>
<td>Class A</td>
<td>Class A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>GPC</td>
<td>Class C</td>
<td>Class B</td>
<td>Class B</td>
<td>Class A</td>
<td>N/A</td>
</tr>
<tr>
<td>IND</td>
<td>Class D</td>
<td>Class D</td>
<td>Class D</td>
<td>Class C</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(e) **Parking Lot Bufferyards.** Surface parking lots in the LDR, MDR, HDR, LCC, GPC, and IND zones shall be buffered from adjacent streets and adjacent residential property. Unless another type of bufferyard is required in the same area, the minimum bufferyard for this purpose shall be a Parking Boundary bufferyard.

### Division 5-5. Lighting

#### Sec. 16-5-500. Nonresidential and Mixed-Use Lighting Standards

(a) **Generally.** Exterior lighting on nonresidential and mixed-use sites shall conform to the requirements of this Section.

(b) **Fixture Types.**

(1) Generally, light fixtures (wherever mounted) shall be “cut-off” fixtures that are oriented to limit illumination that is visible or measurable at the property line.

(2) “No cut-off” fixtures may be used only for decorative purposes, provided:

   A. Their luminaires that produce no more than 1,500 lumens (approximately equal to a traditional 100W incandescent bulb); and

   B. They have a maximum height of eight feet.

(c) **Maximum Freestanding Fixture Height.** No freestanding light fixture shall be greater than 25 feet in height.

(d) **Maximum Illumination Levels.**

(1) Outdoor lighting shall be deflected, shaded and focused away from adjacent properties, and shall not be a nuisance to such adjacent properties.

(2) Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed three-tenths of a foot-candle, measured vertically, and three-tenths of a foot-candle, measured horizontally, on adjacent properties.
(3) The ground-level luminance ratio (the ratio between the luminance of the brightest point on the property and the darkest point on the property) shall not exceed 12 to one.

(e) Canopy Lighting.

(1) Canopy lighting for uses that have sheltered outside work or service areas, such as service stations, shall meet the standards of this Section. All lighting fixtures shall be recessed into the canopy so that they cannot be viewed from off-site from an eye height of four feet.

(2) Canopy lighting is not allowed in the Historic District.

Sec. 16-5-501. Exterior Lighting for Outdoor Recreation

(a) Generally. Ball diamonds, playing fields, driving ranges, tennis courts, and similar amusement or recreation uses have unique requirements for nighttime visibility and, generally, have limited hours of operation. The standards of this Section, and not Section 16-5-500, Nonresidential Lighting Standards, apply to outdoor recreation uses.

(b) Fixture Type. Light fixtures for illumination of playing courts and athletic fields shall be “cut-off” fixtures that are oriented to limit lighting that is visible or measurable at the property line.

(c) Maximum Freestanding Fixture Height. No freestanding light fixture shall be greater than 40 feet in height.

(d) Maximum Illumination.

(1) Field and court lighting shall be deflected, shaded and focused away from adjacent properties and shall not be a nuisance to adjacent properties.

(2) Field and court lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half foot-candle, measured vertically, and one-half foot-candle, measured horizontally, at the property line.

(3) Buffering may be used to reduce impacts of outdoor recreation lighting in order to achieve compliance with the requirements of this subsection (d).

Sec. 16-5-502. Public Safety and Public Nuisance

(a) Generally. The City may require the modification or removal or limited operation of existing or new lighting fixtures if they are found to be a public hazard or public nuisance according to the criteria of this Section.

(b) Hazards. Criteria for finding illumination to be a public hazard are as follows:

(1) Light trespass or glare which is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the intensity of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle.
(2) Light trespass or glare that impairs a person’s visual performance or ability to avoid obstacles in their path.

(c) **Nuisance.** Criteria for finding illumination to be a public nuisance are as follows:

(1) Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of their property.

(2) A high frequency and/or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of property other than the subject property.

(3) Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives the average person from the usual and reasonable enjoyment of the public streets and properties of the City.

### Division 5-6. Hillsides and Ridgelines

**Sec. 16-5-600. Purpose**

(a) **Generally.** Within the corporate limits of the City, there are many significant landforms, including areas with distinct ridgelines, usually at higher elevations. The City Council has recognized that these topographical features are a unique natural resource deserving of protection, and that the construction of buildings and structures on these landforms may degrade this natural heritage. Consequently, the purpose of this Division is to preserve and maintain the City’s scenic topographic resources, as viewed from certain key locations that are particularly significant to the character of the City.

(b) **Regulatory Intent.** This Division is intended to preserve the natural appearance of the mountain skyline from key locations by requiring design techniques that avoid obvious penetration or interruption of the natural skyline. These regulations are not intended to eliminate reasonable development expectations, nor to require the inefficient siting of public facilities.

(c) **Cumulative Application.** The application of these regulations is in addition to the regulations of the underlying zoning district and of this Code and shall be considered by the Administrator in conjunction with the underlying application for development.

**Sec. 16-5-601. Ridgeline Overlay District Established**

The Ridgeline Development Overlay District is hereby established as an overlay district that includes within its boundaries the area designated on the Ridgeline Map on file with the City Clerk and as adopted on the Official Zoning Map. The provisions of this Division shall apply to applications for building permit, zoning, subdivision (preliminary plat, final plat, replat, minor plat), planned unit development, limited or conditional review uses, and certificates of appropriateness for properties located within the Ridgeline Development Overlay District.
Sec. 16-5-602. Exemptions
The following types of development are exempt from this Division:

1. Development that was approved through the building permit, subdivision, planned unit development, special use permit, vested development rights, or historic preservation (certificate of appropriateness) process prior to August 1, 2007, for which approved development was constructed or for which rights are vested.

2. Public utility facilities where no other feasible and prudent alternative site exists as determined by the City Council.

3. City-owned or City-controlled facilities of any type.

4. Construction of a building or structure that mimics a building or structure that existed on the subject property in approximately the same location during the Period of Significance (1874 to 1917).

Sec. 16-5-603. Design Requirements, Building Height, and Building Setbacks
(a) Design Requirements. The following design requirements shall apply to all development that is subject to this Division:

1. The height, bulk, and massing of proposed buildings and structures shall be arranged to avoid the silhouetting of buildings from ridgelines. Mitigation techniques may include:
   A. Utilization of existing topography and natural vegetation;
   B. Distribution of the structural mass into a series of smaller forms.

2. Exterior cladding, roofing, and trim materials shall be non-reflective and shall be of colors that are subtle and muted such that they will not conflict with or obviously stand out from the natural surrounding terrain and vegetation.

3. Cladding materials shall be a combination of two or more of the following:
   A. Wood or cement fiberboard siding;
   B. Brick; or
   C. Stone.

4. Exterior lighting shall be directed, sited, and shielded in such a manner that the light source is not directly visible from adjacent properties and the affected ridgelines, and building walls and roof masses are not illuminated.

(b) Building Height. No part of a building or structure that is located within 50 feet of a ridgeline shall exceed the lesser of:

1. The maximum building height; or

2. An elevation of 20 feet above the elevation of the ridgeline.
(c) **Setbacks.** All buildings shall be set back not less than 25 feet from ridgelines; except that the Administrator may reduce the setback if:

1. It would preclude reasonable development of the subject property; and
2. Other factors mitigate the visual impacts of the building to offset the reduced setback.

### Division 5-7. Scenic Overlook Protection

**Sec. 16-5-700. Purpose**

The City has identified two locations that provide panoramic, scenic views of the historic City. The purpose of this Section is to ensure that future development does not materially interfere with those views.

**Sec. 16-5-701. Virginia Canyon Overlook Protection Area**

(a) *Establishment of Virginia Canyon Road Overlook Protection Area.* The Virginia Canyon Road Overlook Protection Area is located at the intersection of Virginia Canyon Road and Hooper Street. It is defined as the area within a 300-foot radius of Latitude 39°47'47.75"N, Longitude 105°30'43.50"W (*Virginia Canyon Overlook Point*), extending from the northwest right-of-way line of Hooper Street to the 8,625-foot elevation contour line just west of the Virginia Canyon Overlook Point.

(b) *Building Restrictions.* Within the Virginia Canyon Road Overlook Protection Area, no part of a building or structure shall exceed an elevation of 8,625 feet.

**Sec. 16-5-702. Central City Parkway Overlook Protection Area**

(a) *Establishment of Central City Parkway Overlook.* The Central City Parkway Overlook Protection Areas is located on the Central City Parkway, west of the alignment of Roworth Street. It is defined as the area within a 300-foot radius of Latitude 39°47'38.25"N, Longitude 105°30'52.25"W, extending from the northeast right-of-way line of the Central City Parkway to the southeast right-of-way line of the Central City Parkway.

(b) *Building Restrictions.* Within the Central City Parkway Overlook Protection Area, no part of a building or structure shall exceed an elevation of 8,675 feet.

### Division 5-8. Natural Hazards and Hazard Mitigation

**Sec. 16-5-800. Wildfire Hazard Mitigation**

(a) *Generally.* The Wildland-Urban Interface ("WUI") is a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. The WUI creates a potentially dangerous situation for flames or embers from a wildland fire to come in contact with structures. The purpose of this Section is to provide a means to protect
the public health, safety, and welfare by establishing standards for development within a WUI area in order to:

(1) Reduce threats to life safety, property, and resources by improving development and construction standards, access to and defensibility of developments, homes, and other property in WUI areas;

(2) Minimize the potential of spreading fire from wildland areas to structures and from structure fires to wildland areas;

(3) Identify the appropriate use of cul-de-sacs, hammer head turnarounds, and turnouts on streets and roads providing legal and physical access to subdivisions with the intent to provide better emergency access to fire-prone areas; and

(4) Require homeowners and neighborhoods to plan, create, and maintain defensible space that utilizes fire resistant construction and landscaping.

(b) Wildfire Mitigation Plan Required. Proposed development that is located in the WUI shall provide and implement a wildfire hazard mitigation plan according to the standards of Appendix A, Wildfire Mitigation Plan Guidance.

(c) Site Design. The following design standards apply to parcels proposed for development within the WUI. The City may approve alternative standards if it is demonstrated that they are consistent with current State or Federal guidance on wildfire hazard mitigation for development within the WUI.

(1) DEFENSIBLE SPACE. Development sites shall be designed to provide three zones of defensible space, as described in Appendix A, Wildfire Mitigation Plan Guidance.

(2) CHIMNEYS.

A. Buildings and building sites shall be located outside of ravines or other topographical features which constitute “fire chimneys,” and within 150 feet of the apex of “fire chimneys.”

B. Any proposed lot within a new subdivision with a “fire chimney” located on the lot should have a no-build area designated on the face of the final plat for the subdivision that prohibits future development within “fire chimneys” and within 150 feet of the apex of “fire chimneys.”

C. This standard may be modified to allow development at LDR zone density if it is demonstrated that the fire risk is appropriately mitigated and there is no other feasible option for development of the parcel proposed for development.

(3) IMPROVEMENTS PRIOR TO CONSTRUCTION. Water sources, wells, draft sites, hydrants, fire breaks, access routes, and other fire protection equipment or features required by the preliminary plat approval shall be installed prior to construction of any buildings in a new subdivision.

(4) FUELBREAKS.
A. WUI fire protection may utilize fuelbreaks to separate communities, groups of buildings, or individual homes. These breaks can slow or stop the spread of an oncoming fire.

B. Fuelbreaks shall be located to protect both existing and planned developments and adjacent wildlands.

C. Fuelbreaks shall interrupt the continuity of vegetation around the perimeter of the subject property. Dead and fallen trees, tree limbs, shrubs, and other fuel sources shall be removed from fuelbreaks. Appropriate permanent BMPs shall be installed to prevent erosion.

(5) ACCESS. Access to the subject property shall be designed to provide for the safe movement of firefighters and their equipment. Turnarounds that are sufficient to accommodate fire apparatus shall be provided at dead ends, and if the context justifies, at regular intervals along key streets.

(d) Building Design and Materials. Buildings in the WUI shall incorporate fire-resistant design techniques and utilize fire-resistant building materials.

Sec. 16-5-801. Other Natural Hazards

(a) Generally. Steep land, areas having inadequate drainage and other natural hazard areas, including but not limited to areas of state interest, are problems of such a nature as to endanger health, life or property. Areas with such issues shall not be used for development unless such hazards are fully mitigated according to plans created by a registered engineer qualified to produce such plans.

(b) Drainage Areas. Drainage areas shall be left in a natural state (or, if the natural state is not stable, stabilized in a way that maintains a natural appearance), and no encroachments shall be made into the natural channel area unless they are designed to stabilize or otherwise improve the function of the channel.

Article 6. Mitigation of Development Impacts

Division 6-1. Required Dedications; Fees-in-Lieu

Sec. 16-6-100. Purpose of Division

The purpose of this Division to address the dedications or fees-in-lieu that are required from development. This Division does not address impact fees. Impact fees are imposed and collected pursuant to Article X of Chapter 4, Central City Municipal Code.

Sec. 16-6-101. Fee-in-Lieu of Required Parking

(a) Parking Fee Trust Fund Established.
(1) Generally. A segregated, interest-bearing account (the "Parking Account") shall be established by the City for the purposes of collecting fees-in-lieu of required parking.

(2) Deposit of Funds. Such account shall be clearly identified, and all funds collected under the authority of this Section shall be placed solely in the parking account for which the fee was collected.

(3) Interest. All interest earned or money deposited to the parking account shall be credited to and shall be considered funds of the account.

(4) Commingling. The funds in the parking account shall not be commingled with other funds, accounts, or revenues of the City.

(5) Accounting Procedures. The City shall establish appropriate accounting procedures and controls to ensure that the parking funds are properly deposited, accounted for, and appropriated in accordance with the requirements of this Section and other legal requirements applicable to fees-in-lieu.

(b) Parking Fee-in-Lieu.

(1) Generally. If proposed development is located within the Historic Downtown Parking District or the Historic City Parking District, the applicant shall provide:

A. Proof of availability of required on-site or off-site parking spaces; or

B. Pay a fee-in-lieu for parking per required parking space that is not provided on-site or off-site, in an amount established by resolution of the City Council but not to exceed the reasonable cost of providing structured parking spaces in Central City.

(2) Special Study. If no resolution is adopted to implement subsection (b)(1)B., above, the applicant shall provide an engineer's estimate of probable cost ("EOPC"), on a per-parking space basis, for the construction of structured parking in Central City. Said EOPC shall be prepared by a certified Professional Engineer licensed to practice in the State of Colorado. Upon approval of the EOPC by the Building Official, the fee-in-lieu shall be established, per parking space, as follows:

A. Years 2017 and 2018, or first 75 spaces for which fee-in-lieu is provided after the effective date: 10 percent of EOPC per parking space;

B. Years 2019 and 2020, or second 75 spaces for which fee-in-lieu is provided after the effective date: 25 percent of EOPC per parking space;

C. Years 2021 and 2022, or third 75 spaces for which fee-in-lieu is provided after the effective date: 50 percent of EOPC per parking space; and

D. Year 2023 and future years: 100 percent of EOPC per parking space.

(3) Reimbursement Agreements. The City may work with the applicant to create and execute a reimbursement agreement to help fund the construction of additional parking spaces to be used by others in exchange for reimbursement to the applicant
for a proportionate cost of construction from the Parking Account or such other sources as the City Council determines are prudent and appropriate.

Division 6-2. Development Improvements

Sec. 16-6-200. Public Improvements

(a) Generally. Depending upon the nature of the application for development approval, public improvements to be provided, constructed, installed, or otherwise caused to occur by the applicant may include, but not be limited to:

(1) Permanent survey monuments, range points and lot pins;
(2) Streets, alleys, acceleration or deceleration lanes, sidewalks, curb and gutter (when platted) in accordance with the City standards;
(3) Street name signs and all traffic-control signs or other street control devices;
(4) Bridges, culverts, or open drainage channels (where required);
(5) Street lights;
(6) Water lines and fire hydrants;
(7) Sanitary sewer lines; and
(8) Storm drainage improvements and storm sewers where required.

(b) Engineering Specifications. Engineering specifications for public improvements are contained in the City public improvements manual, adopted by City Council resolution and on file in the Community Development Department.

(c) Public Improvements Agreement. All applicants whose development applications require construction, installation, or provision of public improvements or fees-in-lieu thereof shall be required to execute a public improvements agreement. The City has adopted a standard form of public improvements agreement, a copy of which is available through the Community Development Department.

(d) Standards for Public Improvements. All public improvements shall be constructed to comply with all applicable City standards, regulations, and specifications. No subdivision or other development for which public improvements are proposed shall be finally approved or recorded without the execution of the public improvements agreement, along with the required financial security, in a form approved by the City.

(e) Cost of Processing. Applicants are required to pay the costs of processing the development application and public improvements agreement, including all consultant costs, legal fees, and other fees incurred by the City.

(f) Collateral for Public Improvements.

(1) For all public improvements, and prior to the recordation of any final plat or issuance of any permits for development of a subdivision or other development for
which public improvements are proposed, the applicant shall provide to the City collateral in the amount of 125% of the total estimated cost of construction of the public improvements, in the form of either:

A. A cash deposit; or

B. A letter of credit issued by a financial institution authorized to do business in the State of Colorado.

(2) The applicant shall ensure that the collateral remains unencumbered and free from claims of others so that any requests of the City for payment or enforcement may be immediately and unequivocally honored without cost to the City.

(3) The applicant shall provide an independent, third-party report of the status of the improvements every six months during construction.

(4) Such collateral shall be maintained, in the amount required by the agreement, through the warranty period as set forth herein.

(5) If, at any time prior to final acceptance and expiration of the warranty period, the City determines that the collateral is not sufficient to cover all costs of construction of the public improvements and provides the applicant with a written basis for the requested increase to collateral, the applicant shall be required to post additional or supplemental collateral in an amount deemed reasonably sufficient and approved by City to pay for all costs of construction, including any administrative costs and contingency amount.

(6) After preliminary acceptance, the City may reduce the amount of required collateral during the warranty period to an amount reasonably determined by the Administrator, based on the potential cost of repair or restoration of the improvements.

(g) Completion and Acceptance of Public Improvements.

(1) The applicant shall complete construction of the public improvements within a specified period of time from the date of the public improvements agreement.

(2) The City will perform periodic inspections of the public improvements, and the applicant shall promptly modify, alter, or repair, at its own cost and expense, any public improvements not constructed in accordance with the construction plans, such that the public improvements conform to the construction plans.

(3) Upon completion of construction of the public improvements according to the construction plans the applicant shall make a written request for preliminary acceptance of such improvements ("Preliminary Acceptance"). With said request, the applicant shall:

A. File with the City an original or sepia reproducible copy and digital copy (in a form approved by the Administrator) of the as-built construction plans of
such public improvement(s), stamped and certified by the Engineer of
Record who shall also be a state-registered professional engineer; and

B. Submit to the City a sworn affidavit and documentary evidence that there
exists no lien or encumbrance upon or against the public improvements
resulting from unpaid amounts owing to contractors, subcontractors,
material persons or other persons involved or engaged in the construction
or installation of the public improvements.

(4) Upon request for preliminary acceptance, the City shall determine whether the
public improvements are completed according to approved plans. If so, the City shall
issue to the applicant a certificate of preliminary acceptance, granting preliminary
acceptance of the public improvements and setting the terms of the warranty
period. The warranty period ("WARRANTY PERIOD") shall terminate two years from
the date of preliminary acceptance.

(5) Upon expiration of the Warranty Period:

A. The City shall re-inspect the public improvements and require correction of
all defects and failures of the public improvements prior to the issuance of
final acceptance of the public improvements and the release of any
remaining collateral.

B. Upon completion of any required warranty repairs, reconstruction, or
replacement, the public improvements shall become the property of the City
(and thereby the City’s maintenance responsibility) by final acceptance of
the public improvements by the City.

(h) Timing of Certificates of Occupancy. No certificates of occupancy shall be issued for any
building permits until such time as the City has issued (at a minimum) preliminary
acceptance of the public improvements to be constructed as prescribed in the public
improvement agreement.

(i) Reimbursement for Off-Site or Oversized Improvements. In the event oversized utilities or off-
site improvements are required, arrangements for reimbursement may be made whereby
the applicant may be allowed to recover the cost of the utilities or off-site improvements
that have been provided by the applicant to the extent they are scaled beyond the
requirements of the proposed development. The method and time of payment under the
reimbursement shall be established in accordance with the current policies of the City
related to the emplacement of such oversized utilities or off-site improvements.

Sec. 16-6-201. Utilities

(a) The applicant shall underground all electric, gas, cable and telephone lines (collectively,
"UTILITIES") within the boundaries of the subject property or subdivision plat, and which are
required to be relocated pursuant to this LDC or as a condition of approval of the
development. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals,
ducts, street lighting, or other facilities necessarily appurtenant to such underground
utilities may be installed or placed above ground. High-voltage electric transmission and distribution feeder lines and necessary appurtenances thereto may be installed or placed above ground.

(b) All utilities providing public services to proposed development shall be located within dedicated and platted public utility easements or public street rights-of-way, which shall be approved and thereafter subject to acceptance by the City with respect to those utilities that are municipally operated. The applicant shall be responsible for arranging connections from the proposed development to existing utility systems.

(c) The applicant shall pay all installation charges for lighting and gas services required by the public service company providing services to the proposed development.

**Sec. 16-6-202. Stormwater Maintenance Easements**
No later than the date of preliminary acceptance of public improvements, the applicant shall deliver to the City an executed stormwater maintenance easement agreement in a form approved by the City Attorney that authorizes the City to access and inspect stormwater improvements, and to maintain, repair, or replace the stormwater improvements at the property owners’ expense if the property owner fails to do so within 14 days after notice from the City that such maintenance, repair, or replacement is required for the proper operation of the improvements.

**Division 6-3. Operations Plans**

**Sec. 16-6-300. Purpose**
The purpose of this Division is to set out requirements for operations plans that ensure that the operational impacts of certain uses are anticipated and mitigated.

**Sec. 16-6-301. Master Plan for Extraction**

(a) *Generally.* Minerals shall not be extracted except according to a Master Plan for Extraction prepared by the applicant and approved by the Planning Commission.

(b) *Exception.* Mines that are approved or operational on the effective date are not subject to this requirement.

(c) *Master Plan for Extraction.* The Master Plan for Extraction shall address:

1. Any system adopted by the Colorado geological survey grading commercial mineral deposits according to such factors as magnitude of the deposit and time of availability for and feasibility of extraction of a deposit;
2. The potential for effective multiple sequential use which would result in the optimum benefit to the landowner, neighboring residents, and the community as a whole;
3. The development or preservation of land to enhance development of physically attractive surroundings compatible with the surrounding area;
(4) The quality of life of the residents in and around areas which contain commercial mineral deposits;

(5) The Comprehensive Plan and specific area or topical plans;

(6) Maximization of extraction of commercial mineral deposits;

(7) The ability to reclaim the area pursuant to the provisions of Section 32-101, et seq., 34 C.R.S., Colorado Mined Land Reclamation Act; and

(8) The ability to reclaim an area owned by the City or other governmental authority, pursuant to an adopted plan, to be used for public purposes by the City or governmental authority consistent with such proposed use.

Sec. 16-6-302. Heavy Vehicle Routing Plan

(a) Generally. A heavy vehicle routing plan is required for uses as specifically identified in this LDC and for uses that the Administrator determines will involve the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy vehicles at a frequency of more than 10 heavy vehicle trips per week.

(b) When Required. For the uses that require heavy vehicle routing plans, such plans shall be submitted with site plans.

(c) Updates. Heavy vehicle routing plans shall be updated when:

(1) New routes are proposed by the applicant.

(2) The applicant proposes to increase heavy vehicle traffic by more than 10 percent compared to that set out in the approved heavy vehicle routing plan.

(3) Routes are changed by the City or other relevant transportation authority in a manner that affects the approved heavy vehicle routing plan.

(d) Contents. The heavy vehicle routing plan shall include, at a minimum:

(1) The type or class of heavy vehicles that will be used by the applicant's proposed land use;

(2) The anticipated frequency of delivery and departures of heavy vehicles;

(3) The hours of heavy vehicle traffic;

(4) A map illustrating the route(s), from an interstate or other regional arterial, of all heavy vehicles used by the proposed land use; and

(5) A map illustrating the routing and flow of heavy vehicles within the subject property.
Article 7. Nonconformities

Division 7-1. Purpose and Application of Article

Sec. 16-7-100. Purpose of Article

(a) Generally. The application of new regulations to existing development is likely to create circumstances in which existing lot dimensions, density, intensity, land uses, buildings, structures, landscaping and buffering, lighting, or parking areas do not strictly conform to the requirements of the new regulations. For existing lots or development (including uses, buildings, structures, and signs) that is / are “legally nonconforming,” this Article sets out equitable rules for whether, when, and how the regulations of this LDC apply.

(b) Conversion of Nonconformities. Generally, nonconforming uses, buildings, structures, and signs are not allowed to be enlarged, expanded, increased, nor be used as grounds for adding other structures or uses now prohibited in the same zone. This Article provides standards by which minor nonconforming uses (as defined in Section 16-7-200, Nonconforming Uses) can be made “conforming” through a public hearing process.

(c) Reduction of Nonconformities. It is the policy of the City to encourage reinvestments in property that increase its value and utility and improve its aesthetics and environmental performance. Since bringing a developed parcel into full compliance with this LDC may involve substantial costs (which could discourage reinvestment), Division 7-3, Incremental Compliance, provides a set of thresholds for determining when new construction or modifications to development trigger a requirement for increasing conformity with the various requirements of this LDC.

Sec. 16-7-101. Application of Article

(a) Generally. This Article applies to uses, accessory uses, buildings, structures, landscaping and buffering, lighting, parking, and lots that were lawfully created or constructed but do not conform to the requirements of this LDC.

(b) Effect of Article. Nothing in this LDC shall be interpreted to require a change in plans, construction, or designated use of any building in which a building permit was lawfully obtained from the City prior to the effective date of this LDC or subsequent amendment, provided that construction:

(1) Was commenced within 60 days after obtaining said building permit; and

(2) Work is proceeding diligently toward completion.

(c) Changes of Ownership. Nothing in this Article shall be construed to affect or restrict changes in ownership, nor shall changes in ownership affect the application of any of the requirements of this Article.
(d) **Evidence of Status.** Evidence that a nonconforming situation is a legal nonconformity and not a violation of this LDC shall be submitted by the owner of the property or use upon request of the Administrator.

(e) **Exceptions to Article.**

(1) **HISTORIC DISTRICT LOTS AND BUILDINGS.** Lots of record within the Historic District, regardless of their size, and existing buildings on said lots, are "conforming lots" and "conforming buildings," respectively.

(2) **VESTED RIGHTS.** This Article does not apply to site specific development plans for which rights are vested during the period of vested rights.

(3) **UNLAWFUL USES, BUILDINGS, OR STRUCTURES.** This Article does not allow for the perpetuation of uses, buildings, structures, landscaping, or lighting that were unlawfully established or constructed. Such uses, buildings, structures, landscaping, or lighting are not "legally nonconforming," but instead are "unlawful," and are subject to all of the provisions of this LDC (including enforcement provisions) and any other applicable law. Likewise, this Article does not legitimize unlawful subdivisions of property that may have occurred before the effective date of this LDC.

(4) **NATURAL SHIFTS OF ZONE BOUNDARIES.** If a zone boundary changes as a result of a change in location of a stream channel centerline, other natural boundary-defining feature, or street, such change of zone boundary does not render existing development nonconforming. *(See also, Section 16-3-103, Interpretation of Zoning Map).*

(5) **TAKING FOR PUBLIC USE.** Any nonconforming building, structure, parking, or lot that is expressly created or caused by a conveyance of privately-owned land to a Federal, State, or local government to serve a public purpose is conforming for the purposes of this LDC, and is not subject to limitations in this Article. This exemption applies only in cases where private land is obtained by a governmental entity for a public purpose, through condemnation, threat of condemnation, or otherwise, when that transaction creates a nonconformity in the remainder parcel in terms of setback, lot area, or other standards of this LDC. However, this exemption does not apply to right-of-way dedication or other public conveyances of land required by the City in the course of subdivision, site plan, or other development approvals.

(f) **Types of Nonconformities.**

(1) There are six general types of nonconformities:

A. Uses;

B. Density;

C. Buildings;

D. Structures;
E. Site Improvements; and

F. Lots.

(2) Nonconforming uses may be “major” or “minor.” These types of nonconformity are set out in Section 16-7-200, Nonconforming Uses. The application of the standards of this Article is based on the type of nonconformity that is being addressed.

(g) Regulation of Nonconformities. Division 7-2, Regulation of Nonconformities, sets out the standards for when nonconforming uses and nonconforming situations must be made conforming or, alternatively, terminated or removed. It also sets out the circumstances in which a nonconforming use or nonconforming situation may be restored or resumed after damage, destruction, or temporary cessation of the use.

(h) Incremental Compliance. Division 7-3, Incremental Compliance, sets out the standards for determining when new construction or modifications to development trigger a requirement for increasing overall conformity with the various requirements of this LDC, and how the nature and degree of such conformity is determined.

(i) Conversion of Nonconformities. Division 7-4, Conversion of Nonconformities, sets out how to convert a nonconforming use to a conforming use using a conditional use process. Division 7-4, Conversion of Nonconformities, applies only to uses. Nonconforming buildings and structures may be made conforming using the variance process set out in Section 16-8-501, Variances.

Division 7-2. Regulation of Nonconformities

Sec. 16-7-200. Nonconforming Uses

(a) Generally. A nonconforming use is a use of land that was lawfully established (i.e., it was allowed and legally authorized, if legal authorization was required) on a subject property before the effective date of this LDC (or amendment hereto), but is no longer allowed after the effective date of this LDC (or amendment hereto). The following uses are legally nonconforming uses:

(1) CURRENTLY PROHIBITED USES. Uses that were lawfully established but are not currently listed as permitted, limited, or conditional uses in the zone in Division 3-2, Land Use.

(2) LIMITED USES WITHOUT LIMITED USE APPROVAL. Uses that are listed as limited uses in the zone in Division 3-2, Land Use, but:

A. Were lawfully established without a limited use permit; and

B. Do not comply with the applicable limited use standards of Division 3-2, Land Use.
(3) **Conditional Uses without Conditional Use Approval.** Uses that are listed as conditional uses in the zone in Division 3-2, *Land Use*, but were lawfully established without a conditional use permit.

(b) *Exception for Use by Special Review.* Uses that were established before the effective date of this LDC by special review permit are “conforming” if they are in compliance with their conditions of approval, regardless of whether they comply with the applicable standards of Division 3-2, *Land Use*.

(c) *Major and Minor Nonconforming Uses.* There are two types of nonconforming uses: major and minor. The classification of the nonconforming use affects whether it can be converted to a conforming use. See Division 7-4, *Conversion of Nonconformities*.

(1) **Major Nonconforming Uses.** Major nonconforming uses are those uses for which the nonconformity generates a nuisance per se or represents such incompatibility with adjacent uses or the Comprehensive Plan that public policy favors their elimination from the zone if they are discontinued, abandoned, or destroyed. Such uses may not be converted to conforming uses as provided in Division 7-4, *Conversion of Nonconformities*.

A. As of the effective date, there are no major nonconforming uses in the City. Major nonconforming uses may be identified by future amendment to this LDC.

(2) **Minor Nonconforming Uses.** All nonconforming uses that are not classified as major nonconforming uses are minor nonconforming uses. Such uses may be converted to conforming uses as provided in Division 7-4, *Conversion of Nonconformities*.

(d) **Expansion of Nonconforming Use.**

(1) **Major Nonconforming Uses.** Major nonconforming uses shall not be expanded, enlarged, extended, increased, or moved to occupy an area of land or building that was not occupied on the effective date of this LDC or any amendment that made the use a major nonconforming use.

(2) **Minor Nonconforming Uses.** No minor nonconforming use shall be expanded or extended in such a way as to:

   A. Occupy any open space or landscaped area that is required by this LDC;

   B. Exceed building coverage or height limitations of the zone in which the use is located;

   C. Occupy any land beyond the boundaries of the property or lot as it existed on the effective date of this LDC; or

   D. Displace any conforming use in the same building or on the same parcel.

(e) **Changes in Use.**

(1) A nonconforming use shall not be changed to another nonconforming use.
(2) When a nonconforming use is changed to a conforming use, the nonconforming use shall not thereafter be resumed.

(3) If the use of a portion of a building or subject property is changed from a nonconforming use to a conforming use, then the use of that portion of the building or property shall not thereafter be changed back to the nonconforming use.

(f) Discontinuance. The following standards apply when nonconforming uses are discontinued and not changed to another use.

(1) If a major nonconforming use is discontinued for a period of 12 consecutive months (or six months for an inoperable wireless telecommunication facility), for any reason, it shall not be resumed.

(2) If a minor nonconforming use is discontinued for a period of 12 consecutive months, for any reason, it shall not be resumed. However, if an application for conversion of the use or accessory use is filed pursuant to Division 7-4, Conversion of Nonconformities, before the end of the 12 month period, then approval of the application shall permit the use to be resumed as a conforming use.

Sec. 16-7-201. Nonconforming Density

(a) Generally. Nonconforming density refers to a situation where the number of dwelling units that lawfully existed on a lot prior to the effective date of this LDC is greater than the number of dwelling units that could be constructed on the same lot pursuant to this LDC.

(b) Continuation Authorized. Buildings with nonconforming density may be expanded or extended as may be allowed by this LDC, but such expansions or extensions shall not create additional dwelling units.

Sec. 16-7-202. Nonconforming Buildings or Structures

(a) Generally.

(1) Except as provided in Section 16-7-101, a nonconforming building is a building that was lawfully constructed prior to the effective date of this LDC (or amendment hereto) that does not currently conform to the height, setbacks, building coverage, floor area ratio, building scale, spacing, or design standards that are applicable to the same type of building in the zone in which the building is located.

(2) A nonconforming structure is a structure other than a building that was lawfully constructed prior to the effective date of this LDC (or amendment hereto) that does not conform to the standards that are currently applicable to the same type of structure in the zone in which the structure is located.

(b) Repairs and Alterations.

(1) Generally. Routine maintenance and repair of nonconforming buildings or structures is permitted, including necessary non-structural repairs, paint, and incidental alterations which do not extend or intensify the nonconforming buildings or structures or materially extend their durability.
(2) **FINISH UPGRADES.** Finishes on nonconforming buildings or structures may be upgraded, provided that such upgraded finishes comply with all applicable buildings or fire codes.

(3) **STRUCTURAL ALTERATIONS.** Structural alterations (including, but not limited to, expansions) to nonconforming buildings or structures are permitted only if it is demonstrated that:

A. If the structural alterations involve an expansion or substantial improvement to a nonconforming building, then any major nonconforming uses that occupy the building are discontinued;

B. Any applicable standards of Section 16-7-200, *Nonconforming Uses*, are met; and

C. The alteration will eliminate the nonconformity or reduce the nonconformity in accordance with the standards of Division 7-3, *Incremental Compliance*.

(c) **Damage or Destruction; Restoration.**

(1) **DAMAGE OR DESTRUCTION.** If a nonconforming building or structure is damaged, destroyed, or declared unsafe by the City, regardless of the cause, then the building or structure shall be repaired, reconstructed, or replaced only in conformance with all applicable provisions of this LDC if any of the following circumstances exist:

A. The damage or destruction affects more than 50 percent of the gross floor area of the nonconforming building or more than 50 percent of the nonconforming structure;

B. Restoration of the building or structure will cost more than two-thirds (67 percent) of the fair market value of the building or structure at the time it was damaged or destroyed; or

C. Construction is not commenced in the time frames set out in Subsection (b)(2), below.

(2) **RESTORATION.** If a nonconforming building or structure suffers a casualty loss or is declared unsafe by the City, then the building or structure may be repaired or restored if all of the following are demonstrated:

A. Due to the extent of the damage, the circumstances described in Subsection (b)(1)A. or (b)(1)B. do not exist;

B. The non-conformity is not enlarged, increased, or physically extended; and

C. Repairs are commenced pursuant to approved building permits (if required) within one year of the date the building was damaged or, if no date can be reasonably established for the damage, the date that the City determined that the building is unsafe.
Sec. 16-7-204. Nonconforming Site Improvements

(a) Generally. Nonconforming site improvements include nonconformities with respect to landscaping and buffering, lighting, parking and loading, or stormwater infrastructure.

(1) Nonconforming landscaping and buffering does not conform to the landscape and buffering requirements of Division 5-4, Landscaping and Buffering, or other provisions of this LDC that require landscaping or buffering.

(2) Nonconforming lighting is lighting that was approved or lawfully installed before the effective date of this LDC, that is regulated by Division 5-5, Lighting, and that does not comply with the requirements of Division 5-5, Lighting.

(3) Nonconforming parking refers to parking spaces, parking aisles, or loading areas that do not conform to the requirements set out in Division 5-2, Parking and Loading, or other provisions of this LDC related to parking, in terms of the number, dimensions, or location of the parking spaces, parking aisles, or loading areas.

(4) Nonconforming stormwater infrastructure refers to stormwater infrastructure that does not conform to the requirements set out in applicable engineering standards or the modified civil law rule.

(b) Exceptions. The following situations shall be considered “conforming” site improvements:

(1) Landscaping and buffering that are installed according to a plat, site plan, or other site specific development plan that was approved prior to the effective date of this LDC.

(2) Bufferyards, if the LDC requirement is triggered due to development upon or change in use of adjacent or nearby property after the current approvals for the subject property were granted.

(c) Replacement Plantings Required. Where landscape or buffering materials are destroyed or removed and such destruction or removal results in nonconformity (or increased nonconformity) with the planting requirements of Division 5-4, Landscaping and Buffering, then the landscape or buffer materials shall be replaced with comparable materials (i.e., shade trees, small trees, evergreens, shrubs, etc.) such that the original nonconformity is not exacerbated.

(d) Modifications to Lighting Fixtures Required. Lighting fixtures that are damaged (other than “burned out” bulbs) must be replaced with conforming lighting fixtures.

(e) Nonconforming Parking.

(1) Nonconforming parking may be maintained.

(2) Incremental compliance is required as provided in Section 16-7-301, Incremental Compliance with Parking Requirements.

(f) Nonconforming Stormwater Infrastructure.

(1) Nonconforming stormwater infrastructure may be maintained.
(2) Incremental compliance is required as provided in Section 16-7-303, *Incremental Compliance with Stormwater Requirements*.

**Sec. 16-7-207 Nonconforming Lots**

(a) *Generally.* Except as provided in Section 16-7-101, a nonconforming lot is a lot that was lawfully created before the effective date of this LDC or amendments hereto, but which no longer complies with the lot width, lot area, or access requirements of this LDC. Nonconforming lots must be of record (e.g., created by recorded deeds or plats).

(b) *Use of Nonconforming Lots.* Nonconforming lots shall be treated as “conforming” for the purposes of this LDC. In the event that an owner of a nonconforming lot seeks a variance to develop upon the lot, the existence of a dimensional nonconformity shall create a presumption that the conditions of Section 16-8-501(d)(1), (2), and (4) are met.

**Division 7-3. Incremental Compliance**

**Sec. 16-7-300. Purpose**

The purpose of this Division is to encourage reinvestment in existing buildings and properties by mitigating the costs of retrofitting existing buildings and sites to achieve full compliance with this LDC. This Division does not relate to building code compliance or the construction standards that apply to public improvements or subdivision improvements.

**Sec. 16-7-301. Incremental Compliance with Parking Requirements**

(a) *Generally.* Nonconforming parking and loading areas are subject to the regulations of this Section.

(b) *Number of Parking Spaces.*

(1) **BUILDING EXPANSIONS AND EXPANSIONS OF EXISTING USES.** If an existing building or use is expanded, additional parking shall be required only in proportion to the new area of the building or use.

(2) **CHANGE OF USE.**

A. If the use of a building changes, resulting in a net additional demand for parking, then the number of parking spaces provided shall be calculated as the lesser of:

i. The required parking for the new use according to Division 5-2, *Parking and Loading*; or

ii. ((Number of existing parking spaces) + ((number of parking spaces required for the new use) - (number of parking spaces required for the existing use)))

B. Parking spaces shall be designed as required by Section 16-5-209, *Parking Space and Aisle Standards*. 
(3) **Redevelopment.** If an existing building is redeveloped, parking shall be provided as required by Division 5-2, *Parking and Loading.*

**Sec. 16-7-302. Incremental Compliance with Landscaping, Buffering, and Lighting Requirements**

(a) **Generally.** Nonconforming landscaping, buffering, and lighting are subject to the regulations of this Section.

(b) **Landscaping and Buffering.**

(1) **Building Expansions, Parking Lot Improvements and Expansions of Existing Uses.** If an existing building, parking lot, or use is expanded or improved, additional landscaping and buffering shall be required only in proportion to the new area of the building, use, or parking lot as described in Table 16-7-304, *Administrative Sliding Scale Compliance Requirements.*

(2) **Change of Use.** A change of use to a permitted use may occur without bringing the subject property’s landscaping and buffering into full compliance. If a change of use requires additional parking, the parking provided to meet that requirement must also comply with the standards in Division 5-4, *Landscaping and Buffering.* Changes of use that require limited or conditional use permits may include provisions that require additional landscaping and buffering upgrades.

(3) **Redevelopment.** If a subject property is redeveloped, landscaping and buffering shall be provided as required by Division 5-4, *Landscaping and Buffering.*

(c) **Lighting.**

(1) **Building Expansions, Parking Lot Improvements and Expansions of Existing Uses.** As described in Section 16-7-304, *Administrative Sliding Scale Compliance Requirements,* if an existing building, parking lot, or use is expanded or improved, all new lighting shall be required to meet the provisions of Division 5-5, *Lighting.* Existing lighting shall be required to be brought into compliance when a building or use expansion constitutes a major expansion, as described in Section 16-7-304, *Administrative Sliding Scale Compliance Requirements.*

(2) **Change of Use.** A change of use to a permitted use may occur without bringing the site’s existing lighting into full compliance. If a change of use requires additional parking, the parking provided to meet that requirements must also comply with the standards Division 5-5, *Lighting.* Changes of use that require limited or conditional use permits may include provisions that require additional lighting upgrades.

(3) **Redevelopment.** If an existing property is redeveloped, lighting shall be provided as required by Division 5-5, *Lighting.*
Sec. 16-7-303. Incremental Compliance with Stormwater Requirements

(a) *Building Expansions, Parking Lot Improvements and Expansions of Existing Uses.* If an existing building, parking lot, or use is expanded or improved, nonconforming stormwater management facilities shall be improved as provided in Section 16-7-304.

(b) *Change of Use.* A change of use to a permitted use may occur without bringing the subject property’s nonconforming stormwater management facilities into full compliance. However, if a change of use requires additional parking, the standards of subsection (a) apply. Changes of use that require limited or conditional use permits may include provisions that require additional stormwater management upgrades.

(c) *Redevelopment.* If a subject property is redeveloped, stormwater management systems shall be brought into compliance as provided in Section 16-7-304.

Sec. 16-7-304. Administrative Sliding-Scale Compliance

(a) *Generally.* Development or modification of an existing building or site shall not increase the level of nonconformity or create new nonconformities. Proposed development or modification may result in a requirement for bringing other aspects of a development into compliance with the requirements of this LDC, as provided in this Section.

(b) *Sliding-Scale Requirements.* Table 16-7-304, *Administrative Sliding Scale Compliance Requirements,* sets out the levels of reinvestment in buildings or property that trigger additional compliance with the regulations set out in this LDC. The rows in the table are not necessarily exclusive of each other (e.g., a major expansion project may also involve parking lot improvements), so multiple requirements may apply.

<table>
<thead>
<tr>
<th>Type of Improvement</th>
<th>Definition of Improvement</th>
<th>Level of Additional Compliance that is Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>New development or</td>
<td>Expansion of a building by more than 50 percent of its gross floor area, measured</td>
<td>1. Full compliance with all provisions of this LUDC is required.</td>
</tr>
<tr>
<td>redevelopment</td>
<td>prior to the expansion; tear-down and reconstruction of a building; or development of</td>
<td>2. Minor nonconforming uses shall be converted as provided in Division 7-4 or discontinued.</td>
</tr>
<tr>
<td></td>
<td>vacant property.</td>
<td></td>
</tr>
<tr>
<td>Type of Improvement</td>
<td>Definition of Improvement</td>
<td>Level of Additional Compliance that is Required</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Major expansions</td>
<td>Expansion of a building by 30 percent to 50 percent of its floor area, measured prior to the expansion; or increase in parking requirements of more than 40 percent of the number required by this LDC, calculated based on the condition prior to the expansion.</td>
<td>1. Improvements that are needed to ensure public safety (including safety from flood hazards and geologic hazards) and safe circulation are required.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Nonconforming stormwater management systems shall be upgraded to accommodate 200 percent of new runoff created by the expansion or improvement, or to fully mitigate the new impacts and the existing nonconformity (if such total is less than 150 percent of the new runoff).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. All off-street parking spaces and parking aisles shall be dimensioned, and loading shall be provided to conform to this LDC. Parking spaces shall be provided according to the applicable regulations of Section 16-7-301, Incremental Compliance with Parking Requirements.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Major nonconforming uses shall be discontinued.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Minor nonconforming uses shall be converted as provided in Division 7-4 or discontinued.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6. All lighting on the site shall be brought into conformance with this LDC.</td>
</tr>
<tr>
<td>Minor expansions</td>
<td>Expansion of a building up to, but less than 30 percent of its floor area, measured prior to the expansion, or increase in parking requirements of up to and including 40 percent of the number required by this LDC, calculated based on the condition prior to the expansion.</td>
<td>1. Improvements that are needed to ensure public safety (including safety from flood hazards and geologic hazards) and safe circulation are required.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Nonconforming stormwater management systems shall be upgraded to accommodate 150 percent of new runoff created by the expansion or improvement, or to fully mitigate the new impacts and the existing nonconformity (if such total is less than 150 percent of the new runoff).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. All off-street parking spaces and parking aisles shall be dimensioned, and loading shall be provided to conform to this LDC. Parking spaces shall be provided according to the applicable regulations of Section 16-7-301, Incremental Compliance with Parking Requirements.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Major nonconforming uses shall be discontinued.</td>
</tr>
<tr>
<td>Façade and site improvements</td>
<td>Building or architecture changes or site improvements that do not involve expansion of the building or increases in the amount of required parking, but will change the physical character of the building or site in a manner that is different from routine repairs and maintenance.</td>
<td>1. Building improvements shall comply with code requirements that directly relate to the improvements.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Site improvements that are needed to ensure public safety (including safety from flood hazards and geologic hazards) and safe circulation are required if they are needed in the areas where other site improvements are proposed.</td>
</tr>
</tbody>
</table>
TABLE 16-7-304
ADMINISTRATIVE SLIDING SCALE COMPLIANCE REQUIREMENTS

<table>
<thead>
<tr>
<th>Type of Improvement</th>
<th>Definition of Improvement</th>
<th>Level of Additional Compliance that is Required</th>
</tr>
</thead>
</table>
| Parking lot improvements     | Drainage, expansion, or reconstruction improvements, but not restriping or resurfacing alone. | 1. All off-street parking spaces and parking aisles shall be dimensioned, and loading shall be provided to conform to this LDC. Parking spaces shall be provided according to the applicable regulations of Section 16-7-301, Incremental Compliance with Parking Requirements.  
2. Outside of the historic district, parking lot landscaping shall be provided as required by Section 16-5-402, even if it results in a reduction in the number of parking spaces, but only to the extent that the reduction does not result in a parking lot that contains less than 90 percent of the required parking spaces. |

Sec. 16-7-305. Discretionary Sliding-Scale Compliance

(a) Generally. The standards of this Section may be applied by the Planning Commission in the alternative to the standards of Section 16-7-304, Administrative Sliding-Scale Compliance. This process shall be administered by referring a site plan or other proposed application for permit or approval to the Planning Commission for simultaneous consideration.

(b) Threshold Requirements. The standards of this Section may be applied only upon a finding that:

(1) Except as allowed pursuant to Subsection (c)(2), below, the type of improvements proposed will not increase the level of nonconformity with respect to:

   A. The area of the property or building that is directly affected by the proposed improvements; or
   
   B. Any other aspects of the development (e.g., floor area increases that would result in increased nonconformity with respect to drainage, open space, or required parking are not allowed); and

(2) The level of additional compliance that is required according to the standards set out in Section 16-7-304, Administrative Sliding-Scale Compliance cannot be achieved because:

   A. The geometry of the site will not accommodate the level of additional compliance that is required by Table 16-7-304, Administrative Sliding Scale Compliance Requirements; or
   
   B. The cost of achieving the level of additional compliance that is required by Table 16-7-304, Administrative Sliding Scale Compliance Requirements, is
unreasonably disproportionate to the type of improvement that is proposed; and

(3) If the proposed improvements will result in a building expansion that is more than five percent of the existing gross floor area, then major nonconforming uses will be discontinued as a condition of approval.

(c) Standards. The Planning Commission may establish the level of additional compliance that will be required as follows:

(1) The level of additional compliance will be reasonably proportional to the level of investment in the property that is proposed.

(2) The level of additional compliance that is required will address the planning priorities listed below, which are set out in descending order of priority. The priorities shall be considered in order of importance if it is not feasible or equitable to require that all of the priorities be addressed. To maximize the benefit of the required improvements with respect to the function and aesthetics of the site, the Planning Commission may allow minor deviations from other LDC requirements in order to promote more significant priorities (e.g., for some development, the Planning Commission may determine that the need for drainage improvements justifies a minor reduction in the number of parking spaces on the site).

A. Resolving material public safety issues (e.g., improvements at points of access to prevent accidents on abutting streets, improvements to emergency access, improvements to internal circulation where dangerous conditions exist, mitigation of flood hazards, geologic hazards, or wildfire hazards, etc.).

B. Reducing the velocity or improving the water quality of stormwater runoff.

C. Increasing the number of required parking spaces, if:
   i. The property has (or has access to) less than the required number of parking spaces; and
   ii. The shortage of required parking is resulting in illegal parking or parking spillover onto nearby residential streets.

D. Improving landscaping and buffering, as follows:
   i. Bufferyards between nonresidential and residential uses are first priority;
   ii. Parking lot landscaping is second priority; and
   iii. All other landscaping is third priority.

E. Addressing deficiencies in site circulation, loading, and off-street parking space and parking aisle dimensions.

F. Addressing nonconformities with respect to lighting.
Division 7-4. Conversion of Minor Nonconforming Uses

Sec. 16-7-400. Purpose
In many instances, minor nonconforming uses are actually integral parts of the City’s fabric; that is, its character and function. Consequently, notwithstanding the fact that they are technically nonconforming, their continuing existence promotes the City’s policy of protecting its character. In these instances, the classification “nonconformity” and resulting restriction on investment may be contrary to City planning objectives. The purpose of this Section is to provide a way to make the minor nonconforming use a “conforming” use.

Sec. 16-7-401. Procedure and Criteria for Approval
(a) Procedure. An owner of a minor nonconforming use may apply at any time for a conditional use permit to convert the nonconforming use into a conforming one.

(b) Criteria. A conditional use approval may be granted to convert a minor nonconforming use into a conforming use, if compliance with all of the following is demonstrated:

(1) The use meets the criteria for approval of a conditional use set forth in Section 16-3-310, Standards for All Conditional Uses; and

(2) The use, as currently conducted and managed,

A. Has minimal nonconformities; or

B. Has been integrated into the area’s function, as evidenced by the following demonstrations:

i. City residents regularly patronize or are employed at the use (for nonresidential uses in or abutting residential neighborhoods).

ii. Management practices eliminate nuisances such as the spillover of noise and light, odors, or appearance of waste materials and litter, unreasonably congested on-street parking, or comparable conflicts with abutting and nearby properties.

iii. There is no material history of complaints about the use (a history of complaints is justification for denying the conditional use permit, unless the conditions of the permit will eliminate the sources of the complaints).

(3) If the use is nonresidential, it is licensed in accordance with the applicable ordinances of the City.

(4) The use has been maintained in good condition and its classification as a nonconformity would be a disincentive for such maintenance.

(c) Conditions. Conditions may be imposed relative to the expansion of bufferyards, landscaping, or other site design provisions, or other limitations necessary to ensure that, as a conforming use, the use will not become a nuisance. Such conditions may relate to the lot, buildings, structures, or operations of the use.
Sec. 16-7-492. Effect and Annotation

(a) Generally. Uses that comply with the terms of a conditional use permit issued in accordance with this Division are converted from “legally nonconforming uses” to “conforming uses” by virtue of the issuance of the conditional use permit. Unlawful uses may not be made “conforming” under this Division.

(b) Written Approval. Conditional use approvals shall be provided to the Applicant in writing and may be recorded by the Applicant at the Applicant’s expense.

(c) Annotation. Upon granting a conditional use permit and the Applicant’s demonstration of compliance with any conditions placed upon it, the Administrator shall cause the approval to be annotated or included within the City’s geographic information system files.

Article 8. Administration and Enforcement

Division 8-1. Administrative Bodies

Sec. 16-8-100. Administrator

(a) Generally. The Administrator is the Director of Community Development or designee, or such other employee of or contractor to the City as may be designated by the City Manager from time to time.

(b) Authority and Responsibilities.

(1) The Administrator is designated to administer and enforce this LDC.

(2) The Administrator shall have the power to make inspections of buildings and premises to carry out the duties of the enforcement of this LDC, subject to special provisions where stipulated in this LDC.

(3) In the event that the Administrator and Building Official positions are not assigned to the same individual, issuance of building permits and certificates of occupancy by the Building Official shall require approval by the Administrator.

(4) The Administrator is authorized to create, maintain, and update a file of appropriate fire mitigation strategies for use in Wildfire Mitigation Plans.

(c) Recommendations. The Administrator shall make recommendations to the Planning Commission, Board of Adjustment, and City Council as to recommendations or decisions that said bodies are assigned under this LDC.

(d) Decisions. The Administrator shall decide the following types of applications:

(1) Temporary use permits

(2) Use permits or change in use permits
(3) Limited use permits
(4) Design approvals
(5) Final plats
(6) Site plans
(7) Standard-form development agreements
(8) Minor modifications

Sec. 16-8-101. Building Official
(a) Generally. The Building Official is the official who is responsible for administration of the Building Code and for the inspection and acceptance of public improvements. The Building Official is the Administrator or designee.
(b) Authority and Responsibilities. The Building Official has the following authority and responsibilities:
   (1) The Building Official shall review building plans and approve building permits as provided in the Building Code.
   (2) The Building Official shall make inspections and issue certificates of occupancy or temporary certificates of occupancy as provided in the Building Code.
   (3) The Building Official shall review plans for public improvements and verify that the proposed collateral for same is sufficient under this LDC.
   (4) The Building Official shall inspect public improvements and grant preliminary and final acceptance of same.
   (5) The Building Official shall conduct such other activities as directed by the City Manager from time to time.
(c) Decisions. The Building Official shall decide the following types of applications:
   (1) Grading, erosion, and sediment control plans
   (2) Construction plans

Sec. 16-8-102. Historic Preservation Officer
(a) Generally. The Historic Preservation Officer (“HPO”) is the Administrator or designee.
(b) Authority and Responsibilities. The HPO shall:
   (1) Provide recommendations and decisions as set forth in Subsections (c) and (d), below.
   (2) Provide staff support to the Historic Preservation Commission (“HPC”).
   (3) Maintain a set of maps and other records pertaining to known archaeological sites, historic districts, contributing buildings and structures, and historic landmarks within the City limits.
(4) Maintain a local register of historic and archaeologically significant sites within the City.

c) **Recommendations.** The HPO shall make recommendations to the HPC regarding:

   1. Historic district designations or boundary amendments;
   2. Historic landmark designations;
   3. Inventories of contributing and non-contributing buildings and structures; and
   4. Certificates of appropriateness that require HPC decision.

d) **Decisions.** The HPO shall decide applications for:

   1. Installation of pre-approved materials (including but not limited to new roofing and gutters) and new paint on historic buildings provided that the materials or paints are a pre-approved color;
   2. Routine maintenance including, but not limited to, replacing rotted wood on historic buildings or structures;
   3. Emergency repairs on historic buildings or structures;
   4. Installation, removal, or modification of landscaping or hardscaping on historic properties;
   5. Installation, removal, or modification of fences, garden walls, or retaining walls on historic properties;
   6. Like-kind replacements of windows and doors; and
   7. Exterior lighting.

**Sec. 16-8-103. Hearing Officer**

(a) **Generally.** The mayor shall serve as the Hearing Officer.

(b) **Powers and Duties; Decisions.** The Hearing Officer shall hear and decide applications for variances when requested by the Board of Adjustment pursuant to Section 16-8-105, *Board of Adjustment.*

(c) **Consultants; Legal Counsel.**

   1. The Hearing Officer, with approval of the City Council, may retain consultants to advise the Hearing Officer.

   2. When requested by the Hearing Officer, the City Attorney shall attend Hearing Officer hearings or provide legal counsel to the Hearing Officer.

(d) **Reimbursement.** The Hearing Officer may be reimbursed for expenses incurred upon approval of City Council.
Sec. 16-8-104. Historic Preservation Commission

(a) Generally. An Historic Preservation Commission is created as required by Article IX, Section 9.1 of the Home Rule Charter.

(b) Powers and Duties.

(1) Under the specific direction of the City Council, through the office of the City Manager, the Historic Preservation Commission shall serve in an advisory capacity to the City Council and shall have the ability to conduct surveys of structures, interior and exterior, and areas for the purpose of determining those of historical or architectural significance; to maintain and periodically revise detailed listings of such historically or architecturally significant structures and areas; and to classify the information with respect to national, state, regional or local significance, as to period or field of interest.

(2) To recommend to the City Council the alteration of the boundaries of the Historic District for the purposes of preserving and enhancing the Historic District.

(3) To establish an appropriate system of markers for historic structures and areas.

(4) To recommend to the City Council amendments to the standards and design guidelines of the City.

(5) To issue certificates of appropriateness prior to the issuance of a building permit for erection, exterior demolition, moving, reconstruction, restoration, or alteration within the Historic District.

(6) Through City staff, to report annually to the City Council. The report shall include a review of the HPC's decisions rendered during the year, a general survey addressing the appearance and condition of buildings in the City and comments on community trends.

(7) To perform other duties as expressly set out in this Code or as may be assigned by the City Council through the office of the City Manager.

(8) Where the Planning Commission and the HPC have concurrent jurisdiction over proposed development, the Administrator shall coordinate their review, setting joint meetings when feasible.

(9) The HPC shall be responsible for recommending to the City Council changes in the boundaries of the Historic District and designation of historic landmark structures.

(c) Decisions. The HPC shall hear and decide the following types of applications:

(1) Certificates of Appropriateness (except those decided by the HPO pursuant to Section 16-8-102, Historic Preservation Officer).

(2) Demolition certificates

(d) Recommendations. The HPC shall make its recommendations with respect to the following types of applications:
(1) Modification of the boundaries of the historic district.
(2) Designation of historic landmarks.

(e) Membership and Qualifications.

(1) The HPC shall consist of five regular members and one alternate member.

(2) In the year 2020 and thereafter, three members of the HPC shall be residents of the historic district unless the Council finds that there are no qualified nominees who are residents of the historic district.

(3) A person serving in a position as an alternate shall have the right to participate in all meetings of the HPC to the same extent as a regular member, except that a person serving in the position of alternate shall not be entitled to vote on any matter, unless such alternate member is temporarily assigned by the Chairperson of the HPC in the event of an absence or conflict of interest of a regular member during all or any portion of a meeting of the HPC.

(4) When assigned to fill a regular position during a meeting, the alternate member shall assume all rights, duties and obligations of the regular member during the period of assignment. Assignment shall terminate upon the earlier of the return of the regular member to the meeting or the adjournment of the meeting.

(5) Except as provided in Section 16-8-104(d)(3), no person shall be a member of the HPC who is also a member of the City Council, the Mayor, an employee of the City or who holds any other City municipal office, whether elected or appointed.

(f) Appointment; Term.

(1) All appointments shall be made by the Mayor, with the consent of the majority of the City Council, as follows:
   A. Members shall have knowledge of or an interest in historic preservation, building or design.
   B. The Mayor shall consider maintaining the balance of interests and skills of the composition of the HPC, and the individual qualifications of the candidates, including their training, experience, knowledge or interest in any one of the following fields: architecture, landscape architecture, real estate, law, city planning, fine arts, general contracting, education, commerce, or industry.

(2) Each HPC member shall be appointed to a four-year term.

(3) The terms of office of four HPC members (specifically including any members who are joint members of the HPC and the Planning Commission) shall coincide with the four-year term of the Mayor.

(4) The four-year terms of office of the remaining three HPC members shall start and terminate on the odd-numbered years between the odd-numbered years in which the Mayor’s term of office terminates.
(g) **Vacancy.** If a vacancy occurs during the term of a HPC member, the Mayor, with the consent of the City Council, shall appoint an alternate member to fill the unexpired term.

(h) **Meetings.**

(1) Meetings shall be held at the call of the Chairperson or the HPO and at such other times that the majority of the members of the HPC shall determine.

(2) All meetings shall be open to the public, except that the HPC may go into executive session in accordance with the Open Meetings Law.

(3) Open meetings shall be recorded.

(4) A quorum of the HPC shall consist of three voting members, and a majority vote of the members present shall constitute action by the HPC.

(5) The Chairperson shall decide all points of order or procedure unless otherwise directed by a motion approved by a simple majority of the HPC members present at the time.

(6) The HPC may accept positions from proponents of positions on issues before the HPC. Any such position shall be presented in summary with such reasonable documentation as the Chairperson believes is appropriate to assist the HPC in understanding such presentation. The HPC may also accept public input at the sole discretion of the HPC.

(7) The HPC shall keep minutes of its proceedings, showing the vote of each member on every matter, or if absent or failing to vote, indicating such fact, and it shall also keep records of such proceedings, and such records shall be filed with the City Clerk.

(i) **Rules.** The HPC shall adopt procedural rules for the conduct of its business in accordance with the provisions of this LDC, Chapter 2 of the Central City Municipal Code, and Section 9.1 of the Home Rule Charter.

(j) **Officers.** The HPC shall elect a Chairperson and a Vice-Chairperson, each who shall serve for one year and be eligible for reelection. The HPC shall appoint a secretary who may be a HPC member or City employee, who shall keep minutes and record and maintain files. All duties of the secretary, other than attesting to the minutes and other records of the HPC, may be delegated to a non-HPC member.

(k) **Consultants; Legal Counsel.**

(1) The HPC, with approval of the City Council, may retain consultants to advise the HPC.

(2) When requested by the Chairperson or a majority of the HPC members, the City Attorney shall attend HPC meetings or provide legal counsel to the HPC.

(l) **Monthly Stipend; Reimbursement.**

(1) HPC members may be paid a stipend in an amount approved by the City Council for each month in which they attend a regular meeting of the HPC. If no regular meeting
of the HPC occurs in any given month, there shall be no monthly stipend paid to HPC members for that month.

(2) HPC members may be reimbursed for expenses incurred upon approval of City Council.

Sec. 16-8-104. Planning Commission

(a) Generally. A Planning Commission is created as required by Article IX, Section 9.1 of the Home Rule Charter.

(b) Powers and Duties.

(1) Under the specific direction of the City Council, through the office of the City Manager, the Planning and Zoning Commission shall serve in an advisory capacity to the City Council in reviewing planned unit developments, rezonings, subdivision plats, and other development applications as specified in this Code.

(2) As assigned by the City Council, the Commission shall also adopt, amend and update the Comprehensive Plan, recommend changes or updates to this LDC and perform other duties assigned by the City Council through the City Manager’s office. When such duties are so assigned, the Commission shall have the authority to conduct open, public hearings; conduct investigations, studies and surveys; prepare maps, charts, exhibits and reports as shall be necessary; and do and perform all other acts and duties consistent with its powers as set forth in this Code.

(3) It shall be the responsibility of the Planning Commission to hear all changes in this Chapter as prescribed by law and this Chapter, and to recommend action on such changes to the City Council.

(4) The Planning Commission has no authority to approve variances; requests for variances shall be sent forward to the Board of Adjustment for hearing.

(5) The Planning Commission shall coordinate all aspects of a proposal related to historical preservation with the HPC.

(c) Decisions. The Planning Commission shall hear and decide the following types of applications:

(1) Conditional use
(2) Preliminary plat
(3) Final development plans
(4) Comprehensive Plan amendments

(d) Recommendations. The Planning Commission shall make recommendations with respect to the following types of applications:

(1) Rezoning
(2) Certificate of Designation
(3) Mining permit
(4) Preliminary Development Plan (and major amendments to PDP)
(5) Vacation of plats
(6) Abandonment of easements or rights-of-way
(7) Text amendments to this LDC

(e) **Membership and Qualifications.**
(1) The Planning Commission shall consist of five regular members and one alternate member, each of whom shall maintain his or her primary place of residence within the City.
(2) A person serving in a position as an alternate shall have the right to participate in all meetings of the Commission to the same extent as a regular member, except that a person serving in the position of alternate shall not be entitled to vote on any matter unless such alternate member is temporarily assigned by the Chairperson of the Commission in the event of an absence or conflict of interest of a regular member during all or any portion of a meeting of the Commission.
(3) No person shall be a member of the Planning Commission who is also an active member of the City Council, the Mayor, an employee of the City or holds any other municipal office, except that up to and including two members of the Planning Commission may also be appointed to be members of the Historic Preservation Commission.

(f) **Appointment; Term.**
(1) The five regular members and one alternate member of the Planning Commission shall be appointed by the Mayor and confirmed by a majority of the City Council.
(2) Each Planning Commission member shall be appointed to a four-year term.
(3) The terms of office of three Commission members (specifically including any members who are joint members of the Planning Commission and the Historic Preservation Commission) shall coincide with the four-year term of the Mayor.
(4) The four-year terms of office of the remaining two Commission members and the alternate member shall start and terminate on the odd-numbered years between the odd-numbered years in which the Mayor’s term of office terminates.

(g) **Vacancies.** If a vacancy occurs during the term of a Planning Commission member, the Mayor, with the consent of the City Council, shall appoint an alternate member to fill the unexpired term.

(h) **Meetings.**
(1) Meetings shall be held at the call of the Chairperson or Administrator, and at such other times that the majority of the members of the Commission shall determine.
(2) All meetings shall be open to the public, except that the Commission may go into executive session in accordance with the Open Meetings Law.

(3) Open meetings shall be recorded.

(4) A quorum of the Commission shall consist of three voting members, and a majority vote of the members present shall constitute action by the Commission.

(5) The Chairperson shall decide all points of order or procedure unless otherwise directed by a motion approved by a simple majority of the Commission members present at the time.

(6) The Commission shall keep minutes of its proceedings, showing the vote of each member on every matter or, if absent or failing to vote, indicating such fact, and it shall also keep records of such proceedings, and such records shall be filed with the City Clerk.

(i) **Rules.** The Planning Commission shall adopt procedural rules for the conduct of its business in accordance with the provisions of this LDC, Chapter 2 of the Central City Municipal Code, and Section 9.1 of the Home Rule Charter.

(j) **Officers.** The Planning Commission shall, at its first regular meeting of each calendar year, choose one of its members to act as Chairperson and one member to serve as Vice-Chairperson. The Chairperson shall preside at all meetings of the Commission, except that, in his or her absence, the Vice-Chairperson shall preside. A representative of the Community Development Department shall serve as secretary to the Planning Commission.

(k) **Consultants; Legal Counsel.**

(1) The Planning Commission, with approval of the City Council, may retain consultants to advise the Commission.

(2) When requested by the Chairperson or a majority of the Planning Commission members, the City Attorney shall attend Commission meetings or provide legal counsel to the Commission.

(l) **Monthly Stipend; Reimbursement.**

(1) Planning Commission members may be paid a stipend in an amount approved by the City Council for each month in which they attend a regular meeting of the Commission, provided that Commission members may miss one regularly scheduled meeting per year without a reduction in monthly stipend. If no regular meeting of the Commission occurs in any given month, there shall be no monthly stipend paid to Commission members.

(2) Members may be reimbursed for expenses incurred upon approval of the City Council.
Sec. 16-8-105. Board of Adjustment

(a) Generally. A Board of Adjustment is created as required by Article IX, Section 9.1 of the Home Rule Charter.

(b) Powers and Duties. The Board of Adjustment has the following powers and duties:

(1) To hear and decide all questions on appeal from final decisions of the Administrator.

(2) To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or determination made by an administrative official based on or made in the enforcement of this LDC.

(3) To hear and decide (grant or deny) applications for variances.

(4) To, in the Board’s discretion, delegate hearings and decisions on variances to the Hearing Officer if the applicant consents to such delegation.

(5) To hear and decide such other matters as the City Council may prescribe by ordinance.

(c) Decisions.

(1) The Board of Adjustment shall decide applications for variances from this LDC.

(2) The Board of Adjustment shall decide administrative appeals from final decisions of the Administrator.

(d) Membership and Qualifications.

(1) The Board of Adjustment shall consist of five members who shall be appointed by the City Council.

(2) The Council may appoint itself as the Board of Adjustment.

(3) None of the members may be current members of the Planning Commission.

(e) Appointment; Term; Removal.

(1) Appointments to the Board of Adjustment shall be for a period of three years.

(2) In addition to the regular members of the Board of Adjustment, the City Council may appoint two associate members for staggered three-year terms. In the event that any regular member is temporarily unable to act owing to absence from the City, illness, interest in a case before the Board of Adjustment or any other cause, his or her place may be taken during such temporary disability by an associate member who shall enjoy full voting privileges.

(3) The City Council shall have the power to remove any member from the Board of Adjustment for cause after a public hearing.

(f) Vacancies. When vacancies occur prior to the expiration of a regular term, they shall be filled in the same manner as regular appointments but shall serve only until the expiration of the term in which the vacancy occurred.
Meetings. The meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The chair or, in his or her absence, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

Rules.

(1) The concurring vote of four members of the Board of Adjustment shall be required to approve variances and to overturn decisions made by the Administrator presented to the Board of Adjustment.

(2) Any other matters shall require a majority vote of members present of the Board of Adjustment.

(3) The Board shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this LDC, Chapter 2 of the Central City Municipal Code, and Section 9.1 of the Home Rule Charter.

Officers. Members of the Board shall elect from among their members by a majority vote a Chairperson to serve for a term of one (1) year.

Records. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision; or, if absent or failing to vote, indicating that. It shall keep records of its examinations and other official actions, all of which shall be a public record and filed immediately in the office of the Board of Adjustment.

Sec. 16-8-106. City Council

The City Council is formed as provided in the Home Rule Charter. The City Council delegates responsibilities for the administration of the LDC as provided herein. The City Council retains the authority to decide the following types of applications:

(1) Rezonings
(2) Certificates of designation
(3) Mining permits
(4) Development agreements (except standard-form development agreements)
(5) Text Amendments
(6) Preliminary Development Plans (and major changes to PDPs)
(7) Amendments to the boundaries of the historic district
(8) Designations of historic landmarks
(9) Appeals from decisions of the Planning Commission or HPC
(10) vacations of plats
(11) Abandonment of easements or rights-of-way
(12) Amendments to this LDC
Division 8-2. Permits and Approvals

Sec. 16-8-200. Approvals or Permits Required

Approvals or permits are required for development in the City unless specifically exempted by this LDC. The required approvals and permits are described in this Division.

Sec. 16-8-201. Administrative Approvals and Permits

(a) Generally. Administrative approvals and permits are issued by the Administrator, the HPO, or the Building Official. No public hearing is required.

(b) Administrative Approvals and Permits Established. The administrative approvals and permits that are required by this LDC are set out in Table 16-8-201, Administrative Approvals and Permits. These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, such as:

1. State or Federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;
2. Adopted building and safety codes;
3. Ordinances that require permits for activities on public land or within public rights-of-way; or

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Decision-Maker</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Approvals and Permits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Use Permit</td>
<td>Operation of temporary use</td>
<td>Prior to establishment of temporary use</td>
<td>None</td>
<td>Administrator</td>
<td>Div. 3-3</td>
</tr>
<tr>
<td>Use Permit or Change in Use Permit</td>
<td>Check for zoning compliance as condition of issuance of building permit</td>
<td>Simultaneously with issuance of building permit</td>
<td>Building permits that are not related to establishment or change in use</td>
<td>Administrator</td>
<td>Div. 3-2</td>
</tr>
<tr>
<td>Limited Use Permit</td>
<td>Establishment of Limited Use</td>
<td>Prior to establishment of Limited Use</td>
<td>None</td>
<td>Administrator</td>
<td>Div. 3-2</td>
</tr>
</tbody>
</table>

| Site or Design Related Permits and Approvals | | | | | |
| Certificate of Appropriateness (Administrative) | Certain alterations to buildings in historic district, as provided in Sec. 16-8-102(d) | Prior to building permit, if required | See Sec. 16-2-300(b) | HPO | Div. 2-3 |
| Construction Plans | Construction of public improvements such as streets, utilities, and stormwater management systems | Processed with final plat or site plan; approved prior to construction of specified improvements | N/A | Building Official | Engineering Standards Manual |
### TABLE 16-8-201
**ADMINISTRATIVE APPROVALS AND PERMITS**

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Decision-Maker</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning Compliance Approval</td>
<td>Check for zoning compliance as condition of issuance of building permit</td>
<td>Simultaneously with issuance of building permit</td>
<td>Plumbing, electrical, or other permits that do not implicate zoning standards</td>
<td>Administrator</td>
<td>passim</td>
</tr>
<tr>
<td>(non-historic)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grading, Erosion and Sediment Control</td>
<td>Authorization for site grading</td>
<td>Prior to site grading, generally simultaneously with building permit or approval of infrastructure construction plans</td>
<td>Traditional agricultural practices; routine landscape maintenance; ditch maintenance</td>
<td>Building Official</td>
<td>Engineering Standards Manual</td>
</tr>
<tr>
<td>Final Plat</td>
<td>Conveying lots by reference to plat; obtaining building permits within a subdivision</td>
<td>Prior to sale of or construction upon individual lots; approval of construction plans is prerequisite to approval of final plat</td>
<td>N/A</td>
<td>Administrator</td>
<td>passim</td>
</tr>
<tr>
<td>Site Plan</td>
<td>All development</td>
<td>Prior to issuance of building permit and grading, erosion, and sediment control permit</td>
<td>Single-family detached or duplex buildings on individual lots; changes in the use of a building that do not involve exterior modifications or site work</td>
<td>Administrator</td>
<td>passim</td>
</tr>
<tr>
<td>Development Agreement;</td>
<td>Providing timing and security for implementation of construction plans</td>
<td>Prior to issuance of construction permits, or as set out in the development agreement</td>
<td>Development agreements that establish vested rights or materially depart from City-approved form</td>
<td>City Manager</td>
<td>Div. 6-2</td>
</tr>
<tr>
<td>Improvements Agreement; Public</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Improvements Agreement (however</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>titled)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relief</td>
<td>Minor modifications to standards within this LDC or to approved Final</td>
<td>Prior to the issuance of permits or approvals to which the modifications apply</td>
<td>Minor modifications are not available for Certificates of Appropriateness</td>
<td>Administrator</td>
<td>Sec. 16-8-500</td>
</tr>
<tr>
<td>Development Plans</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Sec. 16-8-202. Discretionary Approvals**

(a)  *Generally.* Discretionary approvals and permits are issued by the City after compliance with all applicable requirements of this LDC is demonstrated to the respective decision-maker(s) at a hearing.

(b)  *Discretionary Permits Established.* The discretionary approvals and permits that are required by this LDC are set out in Table 16-8-202, *Discretionary Approvals and Permits.* These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, such as:
(1) State or Federal law, including, but not limited to, the Clean Water Act, Clean Air Act, and the Endangered Species Act;
(2) Further administrative permits (e.g., site plans or final plats);
(3) Adopted building codes;
(4) Ordinances that require permits for activities in public the rights-of-way; or
(5) Business licenses.

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use / Zoning</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Establishment of a conditional use</td>
<td>Prior to the establishment of a conditional use</td>
<td>N/A</td>
<td>Administrator</td>
<td>PC</td>
<td>Sec. 16-3-310</td>
</tr>
<tr>
<td>Rezoning</td>
<td>Changing which zone applies to a parcel proposed for development</td>
<td>Prior to the application of standards from the requested zone</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td>Sec. 16-3-105</td>
</tr>
<tr>
<td>Certificate of Designation</td>
<td>Development of solid waste disposal sites and facilities</td>
<td>Prior to building permits for solid waste disposal sites and facilities</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td>C.R.S. § 25-15-201 or Title 30, Article 20, C.R.S., as applicable</td>
</tr>
<tr>
<td>Mining Permit</td>
<td>Commencement and operation of mines</td>
<td>Prior to commencement or re-opening of mines</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td></td>
</tr>
</tbody>
</table>

| **Site Development / Subdivision / Planned Development** | | | | | | |
| Preliminary Plat | Approval of a proposed major subdivision | Prior to final plat or issuance of permits that authorize construction or site work | N/A | Administrator | PC |
| Preliminary Development Plan (“PDP”) | First step of Planned Unit Development process; filed with rezoning application and, if applicable, preliminary plat | Prior to approval of Final Development Plan | N/A | PC | City Council | § 16-8-203 |
| Final Development Plan (“FDP”) | Second step of Planned Unit Development process; may be filed with final plats or site plans | Prior to approval of final plat or site plan | N/A | Administrator | PC | § 16-8-203 |
### TABLE 16-8-202
**DISCRETIONARY APPROVALS AND PERMITS**

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Agreement; Improvements Agreement; Public Improvements Agreement (however titled)</td>
<td>Providing timing and security for implementation of construction plans; vesting development rights</td>
<td>Prior to issuance of construction permits, or as set out in the development agreement</td>
<td>Agreements that may be approved administratively</td>
<td>Administrator</td>
<td>City Council</td>
<td>Div. 6-2; Div. 8-4 (as applicable)</td>
</tr>
</tbody>
</table>

#### Historic Landmarks and Historic Districts

<table>
<thead>
<tr>
<th>Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate of Appropriateness (HPC)</td>
<td>new building, structure, or addition located in an historic district, or movement, reconstruction, restoration, or alteration of an existing building located in an historic district or an historic landmark in any location</td>
<td>Prior to issuance of permits that authorize construction or site work</td>
<td>Certificates of appropriateness issued by HPO</td>
<td>HPO</td>
<td>HPC</td>
<td>Div. 2-3</td>
</tr>
<tr>
<td>Demolition Certificate</td>
<td>Demolition of a building in an historic district, or demonstration of an historic landmark in any location</td>
<td>Prior to issuance of permits that authorize demolition</td>
<td>N/A</td>
<td>HPO</td>
<td>HPC</td>
<td>Div. 2-3</td>
</tr>
<tr>
<td>Designation of Historic District</td>
<td>Designation of historic district</td>
<td>Prior to application of historic district standards</td>
<td>N/A</td>
<td>HPC</td>
<td>City Council</td>
<td>Div. 2-2</td>
</tr>
<tr>
<td>Designation of Historic Landmark</td>
<td>Designation of historic landmark</td>
<td>Prior to application of standards related to historic landmarks</td>
<td>N/A</td>
<td>HPC</td>
<td>City Council</td>
<td>Div. 2-2</td>
</tr>
</tbody>
</table>

#### Vacation / Abandonment

<table>
<thead>
<tr>
<th>Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planned Unit Development Amendment, Major</td>
<td>Major changes to approved Preliminary Development Plan</td>
<td>Prior to implementation of major changes</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td>§ 16-8-203</td>
</tr>
<tr>
<td>Vacation of Plat or Abandonment of Easement or Right-of-Way</td>
<td>Vacation of plats or abandonment of easements or rights-of-way</td>
<td>N/A</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td></td>
</tr>
</tbody>
</table>

#### Amendments

<table>
<thead>
<tr>
<th>Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference²</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDC Text Amendment</td>
<td>Amending the text of this LDC</td>
<td>N/A</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td></td>
</tr>
<tr>
<td>Comprehensive Plan Amendment</td>
<td>Amending the text or maps of the Comprehensive Plan</td>
<td>N/A</td>
<td>N/A</td>
<td>Administrator</td>
<td>PC</td>
<td></td>
</tr>
</tbody>
</table>
TABLE 16-8-202  
DISCRETIONARY APPROVALS AND PERMITS

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relief</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Variance</td>
<td>Authorizing development which does not strictly comply with the requirements of this LDC</td>
<td>Prior to issuance of permits that authorize the construction or site work</td>
<td>Variances shall not authorize uses which are otherwise prohibited in the zone, nor authorize development that does not comply with the Floodplain Management Regulations</td>
<td>N/A</td>
<td>Hearing Officer (see § 16-8-103) or BOA</td>
<td>Div. 8-5</td>
</tr>
<tr>
<td>Administrative Appeals</td>
<td>See Sec. 16-8-502, Administrative Appeals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sec. 16-8-203. Planned Unit Development

(a)  
*Purpose.* The purpose of the planned unit development ("PUD") regulations is to permit greater flexibility of uses and, consequently, more creative and imaginative design for development than generally is possible under conventional zoning regulation. It is further intended:

1. To promote more economical and efficient use of land while providing a harmonious grouping of a variety of land uses.
2. To provide to the developer reasonable assurance of ultimate approval before expending the time and energy toward completing final designs and, at the same time, provide City officials with the assurance that that project will be an asset to the community's growth, both aesthetically and economically.
3. To ensure that the project’s architecture is in keeping with the City Architectural Design Guidelines and National Historic Landmark designation.
4. To create physical connections between existing and proposed developments in order to achieve an integrated community with common open space, transportation, transit and public services networks.
5. To ensure that development does not adversely impact the City’s public infrastructure or the City’s ability to maintain adequate levels of service to existing development.
6. To ensure that new development pays its own way and that all costs associated with mitigating the development’s impacts are borne by the developer.
(7) To allow for innovative development projects that assist in the implementation of the Comprehensive Plan and not as a device to circumvent development regulations, standards and good planning advice.

(8) To provide development incentives to vacant properties; to remediate blighted conditions caused by underutilization and deterioration of properties and structures located thereon; to encourage underperforming properties to redevelop and contribute to the economic health of the City and its residents; to encourage reinvestment; and to enhance the historic character of the City through redevelopment of vacant properties.

(b) Application. Application for a planned unit development may be made for land located in any zoning district. The process for designation as a planned unit development is a rezoning that is subject to approval by City Council through adoption of an ordinance that establishes the PUD zone district. Where new lots will be created, PUD plans may be processed concurrently with subdivision plats.

(c) Effect of Underlying Zoning.

(1) Except as otherwise amended through and provided for in the preliminary or final development plan, the subject property will remain subject to all requirements of the underlying zone or zones in which the property is located.

(2) Uses that are allowed in the planned unit development shall be limited to those uses that are permitted as-of-right, by limited use review, or by conditional use review in the underlying zone or zones unless other uses are specifically identified on the approved planned unit development plan.

(d) Effect of Ridgeline Overlay District. If a proposed development falls within an area designated under the Ridgeline Development Overlay District, the application must also comply with the Ridgeline Development provisions of this Code. The PUD process shall not be used to relive an applicant from compliance with the regulations of the Ridgeline Development Overlay District; such regulations shall be considered an additional requirement of the preliminary development plan and the final development plan submittal requirements.

(e) Concurrent Subdivision Review. An applicant for a planned unit development that will require subdivision shall submit a preliminary plat application for simultaneous processing with the review of a planned unit development.

(f) Building Height Bonuses. A PUD application for one or more vacant properties that are located within the HDG or GGG zoning districts may request building heights for principal structures in excess of the maximum building heights permitted in the HDG or GGG zoning districts.

(g) Approval Criteria. The Planning Commission and City Council must be satisfied that the proposed PUD application has met each of the following criteria or can demonstrate that one (1) or more of them is not applicable and that a practicable solution consistent with public interest has been achieved for each of these elements:
(1) **PUD/REZONING APPROVAL.**

A. The PUD is consistent with the City’s Comprehensive Plan, or reflects conditions that have changed since the adoption of the Comprehensive Plan.

B. Facilities and services (including sewage, drainage, water, electric, gas, police, fire protection, road and transportation) will be available to serve the subject property while maintaining adequate levels of service to the existing development.

C. The proposal will not result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, vegetation, ridgelines or such impacts will be substantially mitigated.

(2) **PRELIMINARY DEVELOPMENT PLAN.**

A. The preliminary development plan establishes an appropriate relationship to the surrounding area, including the following as applicable:

   i. Building types in terms of appropriateness to density, site relationship and bulk;
   
   ii. Building design in terms of orientation, spacing, materials, signs and lighting;
   
   iii. Variety in terms of housing types, densities, facilities and open space;
   
   iv. Sufficiency of proposed landscaped areas to promote compatibility of on-site uses; minimize heat, glare and noise; aid in the control of vehicular and pedestrian circulation; and protect nearby properties; and
   
   v. Proposed uses other than those permitted outright or by limited or conditional use review in the underlying districts are appropriately located within the PUD and screened as necessary from abutting properties to ensure that such uses do not adversely affect abutting properties.

B. The proposed PDP complies with all applicable use and development standards set forth in this Chapter that are not otherwise modified or waived according to the approved terms of the preliminary development plan.

C. To the maximum extent feasible, the plan mitigates any potential significant adverse impacts on adjacent properties or general community, including traffic, public safety or density impacts.

D. The preliminary development plan adequately demonstrates sufficient capacity of public utilities to serve the development and/or identifies additional infrastructure that is necessary to mitigate the proposed development’s impact to public utilities.
E. The preliminary development plan adequately demonstrates that the development shall be able to mitigate the impact on the 10/50/100-year historic drainage flows that traverse through the property and provides for on-site detention to contain all stormwater generated by the development which is in excess of historic flows.

F. The preliminary development plan provides, where appropriate, for preservation of natural features, including trees and drainage areas, recreation, views, density relief and appropriateness for intended use consistent with the goals and objectives of the Comprehensive Plan.

G. The proposal demonstrates that mechanisms have been established or will be established for permanent maintenance of common open areas and public facilities to ensure that such maintenance does not become an obligation or liability of the City.

H. For building height bonus PUDs only, the development will provide substantial public benefits in terms of numbers of gaming devices; provision of hotel and lodging services; generation of sales and use taxes; on- and off-site public improvements such as road widening; drainage improvements; public amenities; provision for public parking; and other amenities provided by the development.

I. The project’s overall conformity with the historic appearance of the City.

(3) Final Development Plan. The final development plan shall meet the preliminary development plan approval criteria, as well as the following criteria:

A. The final development plan conforms with the approved preliminary development plan.

B. All applicable state and federal permitting has been secured or will be secured prior to commencement of development.

C. The final development plan provides building elevations and plans that are sufficient to show building style, colors and materials. Building elevations shall also illustrate the buildings from perspective within and adjacent to the site.

D. The final development plan provides sufficient landscaping detail to illustrate plant materials and size when planted; suitability of selected plant materials for local climate and plant habitat; and manner in which new landscaping is integrated with natural vegetation to be preserved.

E. The project’s overall conformity with the historic appearance of the City.
Division 8-3. Review and Approval Procedures

Sec. 16-8-300. Standardized Review Process

(a) Generally. The standard development approval procedures of this Division apply to all applications for approvals or permits that are set out in Division 8-2, Permits and Approvals.

(b) Process. The approval procedures set out in Section 16-8-302 to Section 16-8-311, inclusive, are undertaken in sequence until an application is considered and decided by the designated decision-maker for the type of application at issue. Table 16-8-300 lists the approval steps that are required, based on the decision-maker. Figure 16-8-300 illustrates the flow of application processing.

<table>
<thead>
<tr>
<th>Process Step</th>
<th>Decision-Maker</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-8-302</td>
<td>Required Unless Waived by Administrator</td>
</tr>
<tr>
<td>16-8-303</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-304</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-305</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-306</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-307</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-308</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-309</td>
<td>Referrals may be required by Administrator if nature or location of application justifies referral</td>
</tr>
<tr>
<td>16-8-310</td>
<td>Not Required</td>
</tr>
<tr>
<td>16-8-311</td>
<td>Not Required</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Planning Commission, HPC, or Board of Adjustment</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-8-302</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-303</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-304</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-305</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-306</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-307</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-308</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>16-8-309</td>
<td>Required (for recommendation and for decision)</td>
<td>Required</td>
</tr>
</tbody>
</table>

**TABLE NOTE:**

1 The references in this column are to sections of this Division that describe the process step.
FIGURE 16-8-300
STANDARDIZED PROCEDURES

PRE-APPLICATION (Sec. 16-8-302)
- Pre-application meeting with Staff
- Checklists and fee schedule
- Applicant

PRE-PROCESSING (Sec. 16-8-303, 16-8-304, 16-8-306)
- Formal Application
  - Submit or resubmit
  - Complete
  - Incomplete
    - Completeness Review
    - Sufficiency Review
      - Insufficient, add info requested

ADMINISTRATIVE REVIEW (Sec. 16-8-307, 16-8-308, 16-8-309)
- Application denied
  - Not compliant, revisions requested
  - Compliance Review
    - Sufficient
    - Not compliant, revisions requested

HPC, PC, OR BDA PROCESS (Sec. 16-8-310 and 16-8-311)
- Final approval for development
  - Compliant, approve or approve with conditions
  - Application denied
    - Not compliant, or conditions of approval refused

COUNCIL PROCESS (Sec. 16-8-310 and 16-8-311)
- Final approval for development
  - Compliant, approve or approve with conditions
  - Application denied
    - Not compliant, or conditions of approval refused

PUBLIC HEARING REVIEW
- Compliant, recommend approval, OR
  - Not compliant, recommend denial

ISSUE PUBLIC NOTICE AND SET HEARING
Sec. 16-8-301. Ex Parte Communications

(a) Generally. It is the policy and practice of the City to decide applications only on the merits presented in the application, on-record public comments, and at public hearings (if public hearings are required). Therefore, ex parte communications are not allowed.

(b) Timing. The prohibition on ex parte communications begins on the date of application and ends when the appeal period for an issued development order has expired.

(c) Inadvertent Communications.

(1) It is not always possible to prevent ex parte communications. Elected and appointed officials who hear applications required by this LDC shall not privately discuss the merits of a pending application or appeal.

(2) If a communication is received outside of the record (e.g., it is not in the application, agency comments, or public comments, nor was it presented at a noticed public hearing), then the official shall disclose the communication, including the speaker and the substance of the communication, on the record of the public hearing before the application is heard.

(3) The decision-maker or recommending body must base its decision only on the evidence presented on the record. The contents of the ex parte communication shall not be considered part of the record for decision-making unless the information in the communication is also presented at the hearing (other than through the required disclosure).

Sec. 16-8-302. Pre-Application Meeting

(a) Generally. A pre-application meeting is an opportunity for the potential applicant to meet with City staff before filing an application, in order to:

(1) Identify the applicable review procedures and likely timelines;

(2) Review preliminary materials and identify potential issues and related information requirements;

(3) Identify what fees will be due, including whether an escrow payment will be required for professional consultant review.

(b) When Required. A pre-application meeting is required for all application types, except permits for home occupations, cottage industries, and permits issued by the HPO. Informal meetings may be scheduled prior to a pre-application meeting, at the discretion of the Administrator.

(c) Meeting Logistics.

(1) The Administrator is authorized, but not required, to establish a regular schedule for pre-application meetings.
(2) Pre-application meetings may be conducted in person, by telephone, or by internet-based communication tools, as may be agreed between the potential applicant and the Administrator.

(d) Meeting Materials. The potential applicant shall bring to (or submit prior to) the pre-application meeting sufficient supporting materials to explain, as applicable to the type of application to be submitted:

(1) For all applications:
   A. The location of the project;
   B. The proposed uses (in general terms);
   C. The relationship of the proposal to existing development; and
   D. Any other conditions or items that the potential applicant believes are relevant to the processing of the application.

(2) For applications that involve new construction:
   A. The proposed arrangement of buildings, parking, access points, open spaces, and drainage facilities (including water quality and stormwater detention facilities);
   B. The general locations and extent of natural or man-made hazards, irrigation ditches, open water, floodplains, and floodways on and adjacent to the parcel proposed for development; and
   C. For subdivisions, the proposed general lot layout.

(3) For applications that involve renovation, rehabilitation, or re-use of existing buildings:
   A. A brief history of the building; and
   B. The number of square feet of floor area affected by the application.

(4) The Administrator may request that the Applicant bring completed application forms (in draft form) for the types of permits being sought.

(e) Summary. Upon request by the potential applicant, within 21 calendar days of the pre-application meeting, The Administrator shall deliver to the applicant:

   (1) A checklist of submittal materials that will be necessary for the type(s) of application(s) sought; and
   (2) A copy of the City’s application fee schedule.

(f) Courtesy Presentations. At the pre-application meeting, a potential applicant may request an opportunity to make a courtesy presentation of a proposed development concept or conceptual subdivision map in a design charrette process. Attendees will include appropriate staff, referral agencies, design professionals, and other persons identified by the Administrator or the potential applicant.
Sec. 16-8-303. Application

(a) Generally. Every application for development approval required by this LDC shall be submitted on a form approved by the Administrator, along with the corresponding application fee (fees are established by resolution of the City Council). Unless waived by the Administrator, all applications shall include electronic versions of all attachments in a format approved by the Administrator.

(b) Forms.

(1) The Administrator shall promulgate and periodically revise, as necessary, forms for each type of application required by this LDC. Minimum application requirements and provisions for waiving application requirements may be provided in an appendix to this LDC.

(2) Application forms shall include the specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the Administrator, and have the purpose of facilitating:
   A. The evaluation of applications for compliance with the standards of this LDC; and
   B. The administration of this LDC.

(3) The Administrator is authorized to establish a standardized format for each type of required submittal, and to allow deviations from the format in instances where the Administrator finds that an alternative format would provide for more efficient review.

(c) Schedule. The Administrator is authorized, but not required, to establish regular intake days or times or any or all classifications of applications for development approval, except sign permits and administrative appeals.

Sec. 16-8-304. Application Fees and Escrows

(a) Generally. Fees shall be charged to offset the cost of application processing (including any application for amendments of existing approvals), reviews, public notices, hearings, and recordkeeping. Application fees to be charged by the City shall be established, from time to time, by resolution adopted by the City Council.

(b) Recording Fees. Recording fees of the County Clerk and Recorder's Office shall be paid to the County by the Applicant at the time of any required recording.

(c) Referral Agency Fees. The Applicant may be required to pay any fees assessed by referral agencies in advance of their review and comment. Failure to obtain comments from referral agencies due to failure to pay review fees may result in delay or denial of an application.

(d) Escrow for Consultant Review.

(1) CONSULTANT REVIEW AUTHORIZED.
A. The Administrator is authorized to retain professional consultants at the Applicant’s expense to assist in the review of proposed development.

B. The Administrator may make an initial determination as to the use of consultants at the time of the pre-application meeting, and may revise the determination at the time of application if new or changed information in the application materials justifies the revision.

(2) INITIAL ESCROW PAYMENT.

A. If the Administrator determines that an application will require review by professional consultants, then the Applicant shall execute an escrow agreement in a form approved by the City Attorney, and make an initial escrow payment in an amount sufficient to cover the estimated review costs.

B. The Administrator shall provide the Applicant with a preliminary estimate of professional consultant review fees at a time established during the pre-application meeting by agreement with the Applicant. Alternatively, the Administrator may advise the Applicant regarding the amount of a fixed-fee that has been established in advance for the type of application presented.

(3) ADDITIONAL ESCROW FUNDS. The Administrator may require additional escrow funds to be paid for additional services related to the application, should they become necessary. If a balance is due at the time an application is approved, it shall be paid by the Applicant as a condition of approval.

(4) USE OF ESCROW PAYMENT. The City may draw upon the escrow to pay the fees and expenses of professional consultants retained by the City to review the application.

(5) RETURN OF ESCROW FUNDS. Escrow funds shall be returned to the Applicant as follows:

A. If the Administrator decides not to use consultants, then escrow funds shall be returned to the Applicant within 30 days of the decision.

B. If the Applicant withdraws the application, then the Administrator shall notify the consultants to stop work within 24 hours of the withdrawal. The Administrator shall then return the escrow to the Applicant, less the amount required to pay the consultant for work actually performed.

C. When the application is decided, any positive escrow balance shall be returned to the Applicant within 60 days.

(6) ACCOUNT REPORTS. Applicants shall be provided with a monthly accounting of the use of escrow funds.

(7) FIXED-FEE CONSULTANT REVIEW. The Administrator is authorized to establish:

A. A roster of consultants that are pre-qualified to conduct reviews of various types; and

B. For routine application types with predictable review fees, a schedule of fixed-fees for consultant review.
Sec. 16-8-305. Completeness Review

(a) **Generally.** The Administrator shall review all submitted applications for completeness. A complete application includes all of the materials required on the application forms, materials requested at the pre-application conference, any required professional certifications, and all fees and escrows that are required for application processing.

(b) **Schedule.** Generally, all applications shall be reviewed for completeness within seven calendar days after an application is submitted.

(c) **Incomplete Applications.**

(1) Incomplete applications shall be returned to the Applicant, along with any fee included with the application, with a written explanation that describes in general terms the materials that must be submitted in order to complete the application.

(2) An application that does not include the applicable processing fee shall not be considered complete.

(3) Incomplete applications are not considered filed.

(d) **Complete Applications.** Complete applications shall be processed according to the applicable procedures of this Article.

(e) **Waiver of Application Information Requirements.** The Administrator may waive any of the information requirements of a particular application type if it is obvious that they do not relate to the processing of the application for which the waiver is requested. The Administrator may not waive application fees.

Sec. 16-8-306. Sufficiency Review

(a) **Generally.** All applications shall be technically sufficient for review, in that:

(1) The application materials are internally consistent and are presented as required by this LDC and the applicable application forms.

(2) Materials are prepared by qualified professionals (where such qualifications are required), and signatures and certifications are present, if required.

(3) The application materials are technically sufficient (*e.g.*, legal descriptions and calls and distances on surveys describe closed polygons within acceptable tolerances, calculations that are provided are performed according to the methodologies set out in this LDC, etc.) to demonstrate compliance with applicable standards of this LDC.

(b) **Insufficient Applications.**

(1) An application is insufficient if it does not meet the standards of Subsection (a), above.

(2) If an application is determined to be insufficient, the Administrator shall notify the Applicant and provide a written explanation regarding the materials that must be submitted, or revisions that must be made, in order to continue processing the application.
(3) The Applicant shall provide the materials or revisions that are required to make the application sufficient within 15 days of the date of the notice.

(4) If an Applicant fails to submit the required materials within the time period specified in Subsection (b)(3), above, or if the Applicant fails to submit a sufficient application after three rounds of review, then the application fee shall be retained and the application shall be returned to the Applicant as insufficient.

(c) Sufficient Applications. Technically sufficient applications shall be processed according to the applicable standards and procedures of this LDC.

Sec. 16-8-307. Stale Applications

(a) Generally. This Section is intended to extinguish applications that become stale due to inaction by the Applicant.

(b) Expiration of Stale Applications. When an action by the Applicant is required for further processing of an application (for example, if revisions are requested after agency referrals), the application shall become void:

(1) Six months after the date that the action is requested if the Applicant either fails to take action or fails to request an extension of time pursuant to Subsection (c) below; or

(2) Upon failure to timely provide requested information to make an application technically sufficient pursuant to Section 16-8-306, Sufficiency Review.

(c) Extension of Time. The time for expiration of an application may be extended by up to six additional months upon written request of the Applicant before the end of the period set out in Subsection (b), above.

Sec. 16-8-308. Administrative Review

(a) Generally. Upon determination that an application is complete and sufficient, the Administrator shall cause the application to be reviewed for technical compliance with all applicable requirements of this LDC, as follows:

(1) Appropriate City staff or consultants shall review the application; and

(2) The application shall be promptly referred to applicable referral agencies and individuals for review and comment pursuant to Section 16-8-309, Referrals and Public Comments.

(b) Recommended Revisions.

(1) The Administrator shall provide comments from City staff or consultants (collectively, “staff comments”). The staff comments shall provide Staff or consultant input and address or include comments by referral agencies and interested individuals. The Applicant shall revise and resubmit the application with appropriate changes based on staff comments.
(2) Upon receipt of the re-submittal, the Administrator may refer the application to referral agencies again if the changes substantially affect the interests of the agency in ways not anticipated by the agency’s original comments (or lack thereof), or require the agency’s technical expertise for appropriate review.

(3) The re-submittal shall not require an application fee unless both of the following conditions are met:
   A. The revisions are inappropriate or incomplete; and
   B. Repeated failure to address comments requires more than three rounds of revisions.

(c) Administrative Recommendation or Decision. Promptly after determination that a complete application addresses the comments and recommendations provided pursuant to Subsection (b), above (or, after finding that no revisions will be required):

   (1) If the application is for an administrative approval or permit, then the Administrator (or HPO, as applicable) shall approve, approve with conditions, or deny the application, as appropriate.

   (2) If the application is for a public hearing approval or permit, then the Administrator shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

(d) Meeting Logistics.

   (1) If the application is for a public hearing approval or permit, then the Administrator shall set the application on the agenda of the next body that will consider the application.

   (2) Generally, the application shall be heard during the next regular meeting of the body which meets the following three conditions:
      A. There is sufficient time to meet applicable public notice requirements; and
      B. There is available room on the agenda.

   (3) The Administrator shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.

   (4) The Administrator, or a designee, shall notify the Applicant regarding the time and place of the public hearings.

Sec. 16-8-309. Referrals

(a) Generally. Applications may be referred for additional review by agencies or consultants according to the procedures set out in this Section.

(b) Inter-Jurisdictional Referrals.
(1) As part of the review process, the City may seek review and comment by referral agencies that have expertise in the subject matter impacted by the application, that have jurisdiction over one or more aspects of the proposed development, or whose operations will likely be affected by the proposed development. Referral agency comments are advisory to the City.

(2) The Administrator may refer an application to any agency, jurisdiction, ditch company, land management entity, utility, or department that the Administrator determines is likely to be materially affected by the application. The Administrator’s determination regarding referrals is not appealable.

(3) The agency referral period is 21 calendar days, which can be extended by up to 30 additional days by mutual consent of the Applicant and the Administrator.

(4) Failure of an agency to respond within the prescribed time period (or extended period) is interpreted as consent by that agency to the contents of the application. However:

A. Such consent does not waive the authority of agencies which have concurrent jurisdiction with the City; and

B. Such consent is not implied if the applicant fails to pay the agency’s required review fees.

(c) Consultant Review. Upon notice to the Applicant, the Administrator may refer the application to consultants selected by the City, in order to obtain technical review and recommendations. The cost of such referrals shall be borne by the Applicant.

Sec. 16-8-310. Public Notice

(a) Generally. For applications that require public notice, public notice shall be provided according to the standards of this Section.

(b) Contents of Public Notice. Public notice shall include the following elements:

(1) The phrase “PUBLIC NOTICE” at the top of the notice.

(2) A brief description of the type of application (e.g., rezoning from zone X to zone Y).

(3) Date, Time, and Place of Hearing or Date of Decision.

(4) A brief summary of what the Applicant is requesting (e.g., approval of a 10,000 sf. commercial retail development).

(5) The physical address of the subject property, or if an address is not available, a location map of the property or a statement that the legal description is on file with the Administrator.

(6) A notice that interested persons may obtain more information from the Administrator, and contact information for the Administrator.

(c) Types of Public Notice. Table 16-8-310A, Types of Public Notice, sets out standardized requirements for publication, posting, and mail notice that are used for different application
types and different phases of the application process. The types of notice that are set out in the table are used to establish notice requirements for each type of application in Table 16-8-310B, Required Public Notice by Application Type.

### TABLE 16-8-310A
**TYPES OF PUBLIC NOTICE**

<table>
<thead>
<tr>
<th>Type of Notice</th>
<th>When Required</th>
<th>Frequency or Duration</th>
<th>Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication (PUB)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PUB.1</td>
<td>At least 15 days before public hearing</td>
<td>1 publication</td>
<td>NA</td>
</tr>
<tr>
<td>PUB.2</td>
<td>At least 7 days before public hearing</td>
<td>1 publication</td>
<td>NA</td>
</tr>
<tr>
<td>Posting (PO)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PO.1</td>
<td>At least 7 days before public hearing</td>
<td>Post until public hearing commences</td>
<td>NA</td>
</tr>
<tr>
<td>Mail (ML)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ML.1 (radius or area)</td>
<td>At least 7 days before public hearing</td>
<td>1 mailing</td>
<td>Mail notice must be sent to all property owners within 300 feet of the boundaries of the subject property.</td>
</tr>
</tbody>
</table>

(d) **Type of Public Notice Required by Application Type.** Table 16-8-310B, Required Public Notice by Application Type, sets out the notices that are required at each state of processing for each type of application for which notice is required.

### TABLE 16-8-310B
**REQUIRED PUBLIC NOTICE BY APPLICATION TYPE**

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Form of Required Public Notice for ...</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Board or Commission Review</td>
</tr>
<tr>
<td>Use-Oriented Permits and Approvals</td>
<td></td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>PO.1</td>
</tr>
<tr>
<td>Rezoning</td>
<td>PUB.1; PO.1; ML.1</td>
</tr>
<tr>
<td>Comprehensive Plan Future Land Use Map Amendment</td>
<td>PUB.1; PO.1</td>
</tr>
<tr>
<td>Site Development (Layout)</td>
<td></td>
</tr>
<tr>
<td>Preliminary Development Plan</td>
<td>PUB.1; PO.1; ML.1 (all owners within proposed zone, and all owners within 300 ft. of proposed boundaries)</td>
</tr>
<tr>
<td>Final Development Plan</td>
<td>PUB.1; PO.1; ML.1 (all owners within proposed zone, and all owners within 300 ft. of proposed boundaries)</td>
</tr>
<tr>
<td>Historic Landmarks and Historic Districts</td>
<td></td>
</tr>
<tr>
<td>Amendment of Historic District</td>
<td>PUB.1; PO.1; ML.1</td>
</tr>
<tr>
<td>Designation of Historic Landmark</td>
<td>PO.1</td>
</tr>
<tr>
<td>Certificate of Appropriateness</td>
<td>N/A</td>
</tr>
<tr>
<td>Relief</td>
<td></td>
</tr>
<tr>
<td>Variance</td>
<td>PO.1; ML.1</td>
</tr>
<tr>
<td>Administrative Appeal</td>
<td>PO.1; ML.1</td>
</tr>
</tbody>
</table>
(e) **Standards for Required Notices.**

(1) **Publication.** Published notice shall be printed in a newspaper of general circulation in Central City.

(2) **Posting.** Posted notice shall be on an approved sign provided by the City.

(3) **Mail.** Mailed notice shall be delivered via first class U.S. Mail.

(f) **Optional Notices.**

(1) **Electronic Mail.** Electronic mail notice may be delivered to an opt-in distribution list that is created for the purpose of notifying people about applications for approvals and permits in the City. Electronic mail notice shall include the subject line “PUBLIC NOTICE OF PROPOSED DEVELOPMENT,” and the statement in the body of the e-mail that “Electronic mail notice is provided as a courtesy to opt-in subscribers. Failure of an e-mail communication to reach a subscriber does not constitute failure of public notice.”

(2) **Internet.** Internet notice may be posted on the official web site of the City, on a page or pages that are designated for such notices. However, internet notice is also provided as a courtesy and is not official notice. Therefore, failure of internet notice shall not constitute a failure of public notice.

**Sec. 16-8-311. Hearings**

Public meetings and public hearings shall be carried out in accordance with the procedural rules of the body conducting the meeting or hearing.

**Sec. 16-8-312. Continuances and Withdrawal**

(a) **Continuances.** Requests for continuance by the Applicant of any proceeding called for in this LDC may be granted at the discretion of the body holding the public meeting or public hearing. If granted, the Applicant shall pay all additional costs associated with the rescheduling of the proceeding.

(b) **Withdrawal.** Any application may be withdrawn, either in writing or on the record, prior to or during the meeting or hearing at which the application is considered, provided that it is withdrawn before official action is taken on the application.

**Sec. 16-8-313. Successive Applications**

(a) **Generally.** It is the policy of the City not to hear successive applications for the same approval or permit after a substantially similar application is denied. The limitations of this Section prevent the consideration of successive applications.
(b) **Time Required Between Substantially Similar Applications.** If an application for a permit or approval is denied, a substantially similar application will not be accepted for:

1. Six months from the date of denial in the case of administrative permits or certificates of appropriateness; and
2. 12 months from the date of denial for all other permits or approvals.

(c) **Exceptions to Successive Application Restrictions.** The Administrator may allow exceptions to this Section if one of the following is found:

1. The application is not substantially similar; or
2. There has been a material change of circumstances that justifies consideration of a substantially similar application. By way of example and not limitation:
   A. If a spacing requirement was the reason for the denial, and the use from which spacing is required moved away; or
   B. If a geologic hazard was the reason for the denial, and the nature of the hazard has changed or new technologies are available for mitigating it; or
   C. If a subsequent amendment to this LDC now allows for approval of the application.

**Sec. 16-8-314. Recording of Approvals**

(a) **Generally.** The following permits and approvals shall be recorded in the public records of the County in which the subject property is located, at the applicant’s expense:

1. Final Plats
2. Preliminary Development Plans
3. Final Development Plans
4. Conditional Use Approvals
5. Development Agreements, Public Improvements Agreements, and Reimbursement Agreements

(b) **Timing.**

1. Upon approval of a final plat, preliminary development plan, or final development plan, the applicant shall provide final mylar drawings to the City Clerk within 90 days for execution by the City and recording.
2. The final mylar drawings shall include:
   A. All required signatures except those to be provided by the City; and
   B. All conditions of approval.
3. Failure of an applicant to timely submit a conforming plan to the City Clerk shall, upon the enactment of a resolution by the City Council finding that the submittal was untimely, void the untimely approval.
Sec. 16-8-315. Effect of Approvals

(a) Generally. It is the intent of the City that development approved pursuant to this LDC be carried out in a timely manner pursuant to the specifications, terms, and conditions of approval; and that the steps within each approval process be carried out with diligence.

(b) Effect of Approval or Permit.

(1) Approval of an application means that the City consents to the particular use, plan, or other specific activity for which the approval was granted. Physical development of land may require a sequence of related (and increasingly detailed) approvals.

(2) Supplemental materials that are provided in support of an approval become part of the approval (e.g., elevations, lists of building materials, etc.) unless otherwise noted in the approval itself.

(3) Approvals and permits may be transferred to a subsequent buyer of the property for which the approval or permit was issued, unless the approval or permit is specifically designated as non-transferable by condition of approval. Transferred permits shall continue to be valid for their full original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original Applicant.

Sec. 16-8-316. Duration of Approvals

(a) Administrative Approvals. The administrative approvals described in Table 16-8-201, except a final plat or development agreement, shall be valid for one year from the date of approval.

(b) Discretionary Approvals. Discretionary approvals will lapse and be of no further force and effect if a complete applications for the next stage of approval is not filed before the deadline set out in this subsection:

(1) The discretionary approvals described in Table 16-8-202 shall lapse as follows:

A. One year from date of approval:
   i. Conditional use permit
   ii. Certificate of appropriateness
   iii. Demolition certificate
   iv. Variance

B. Two years from date of approval:
   i. Certificate of designation
   ii. Mining permit
   iii. Preliminary plat
   iv. Preliminary development plan

C. Three years from date of approval:
i. Final development plan

(c) Development Agreements. A development agreement is valid for the term set out in the development agreement.

(d) Approvals That Do Not Lapse. Rezonings, designations of historic districts or historic landmarks, vacations or abandonments of easements or rights-of-way, LDC text amendments, Comprehensive Plan amendments, recorded final plats, and administrative appeals do not lapse.

Sec. 16-8-317. Extensions of Approvals

(a) Generally. The term of approvals may be extended by written request according to the standards and procedures of this Section.

(b) Timing of Application for Extension. Expired permits cannot be extended. Written requests for extensions shall be received not later than 30 days prior to the expiration of the approval or permit. Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances (e.g., an unusual severe weather event) justify the request.

(c) Extensions for Extraordinary Circumstances. The City Council may, by resolution, extend the term of all permits and approvals City-wide or in designated areas of the City in response to extraordinary circumstances, such as flood, wildfire, landslide, or other natural or man-made disaster which makes it temporarily infeasible to commence or continue with construction. The period of such extensions shall be determined by the City Council.

(d) Administrative Extensions. Unless otherwise provided in the permit or approval, the Administrator may grant one extension of any permit or approval for a period not to exceed the original term or 18 months, whichever is shorter. Such extensions may be granted upon timely written request with good cause shown.

(e) Extensions after Hearing.

(1) Unless otherwise provided in the permit or approval, a hearing is required for:

   A. Extensions for terms that are longer than those which can be granted by the Administrator pursuant to Subsection (d), above; and

   B. Second (and subsequent) extensions.

(2) Extensions of discretionary permits and approvals pursuant to this Subsection shall be heard by the body that granted the original approval. Extensions of administrative permits and approvals pursuant to this Subsection shall be heard by the Board of Adjustment (all administrative permits except certificates of appropriateness) or Historic Preservation Commission (certificates of appropriateness).

(3) Extensions may be granted after hearing if it is demonstrated that:

   A. There is good and reasonable cause for the request; and
B. The Applicant has provided reasonable assurances that it will perform (or cause to be performed) the work authorized by the permit or approval within the extended term.

(f) Extensions Pursuant to Permit or Approval Terms. If a method of extension is provided within a permit, or approval, or related development agreement between the Applicant and the City, then such method of extension shall supersede this Section with respect to said permit or approval.

(g) Effect of Appeals, Litigation, or Mediation.

(1) If there is an appeal, litigation, or mediation during the time period that limits the Applicant’s ability to use or develop land pursuant to a permit or approval granted by the City, then the term of the permit or approval shall be tolled for the duration of the appeal, litigation, or mediation, and the date shall be recalculated upon conclusion of the appeal, litigation, or mediation.

(2) The new expiration date shall be established by adding the number of days that the approval would have remained valid before the appeal, litigation, or mediation commenced to the date the appeal, litigation, or mediation was concluded by:

A. The expiration of the subsequent appeal period after final judgment or order in the initial appeal or litigation, or, if no appeal is available, after issuance of the final judgment or order; or

B. The termination of mediation by resolution of the conflict or impasse.

(3) This Subsection does not apply to litigation which is related to enforcement of a violation of this LDC.

Sec. 16-8-318. Modification of Approvals

(a) Generally. Permits and approvals may be modified pursuant to this Section.

(b) Administrative modifications.

(1) PURPOSE. The purpose of an administrative modification is to provide an efficient process for minor change to permits or approvals, including those related to site plans, preliminary plans, and planned unit developments, provided that the changes do not substantially alter the approved development parameters.

(2) RANGE OF ADMINISTRATIVE FLEXIBILITY. The items listed in this Subsection qualify for an administrative amendment within the ranges specified. If an item does not qualify as an administrative amendment, it is considered a major change and must be processed in the same manner as a new application. The Administrator may approve:

A. Up to a five percent increase in nonresidential floor area for any institutional, commercial or industrial development. The increase is limited to hallways, stairways, restrooms, and storage, or a proven necessity for the
operational safety of the project. An amended floor plan shall accompany the final application and be included as a part of the approved documents.

B. A reduction up to 10 percent for the minimum distance between buildings. However, the reduction shall not authorize a violation of applicable building or fire codes.

C. A 10 percent increase in the area of building footprints. However, this shall not reduce open space to less than the minimum applicable requirements of this LDC, nor reduce parking or setbacks, nor increase the maximum height or density from those approved.

D. A reduction in building footprints.

E. Relocation of building envelopes or footprints, provided that the relocation does not change any of development restrictions that are set out in the permit or approval, and an analysis of impacts to the originally approved drainage study show no material negative impact on drainage.

F. An increase in open space.

G. Changes to the specifications of public improvements, provided that the changes are consistent with current City requirements.

H. Changes to lighting, landscaping, or trash disposal areas, provided that the changes are consistent with the requirements of this LDC.

(3) Specific Exclusions. The following are not eligible for approval as an administrative modification under any circumstances:

A. An increase in the number of residential units;

B. An application that requires additional right-of-way dedications, vacations of public improvements, or modification of an existing development agreement or improvements agreement;

C. A transfer of density from one development phase to another, or from one site to another (where density by area or phase is specified on an approved development plan);

D. Increases of building height; and

E. Subdivision related changes (such as lot lines, easements, rights-of-way, internal roadways, vacations and / or drainage systems) that require a replat or plat correction.

(4) Decision.

A. The Applicant shall submit required application materials, along with a letter of intent that details how the proposed modification meets the applicable amendment criteria set out in subsection (b)(5), below.
B. The Administrator will make a determination as to the proposal’s eligibility to be processed administratively.

C. The Administrator may refer any request for an administrative amendment to the Planning Commission for consideration at a regular meeting. The Administrator will notify the Applicant if it is determined that Planning Commission review will be required.

(5) APPROVAL CRITERIA. Administrative modifications shall meet the following criteria:

A. The modification implements or does not reduce the potential for implementation of the Comprehensive Plan;

B. The modification is consistent with the efficient development and preservation of the development approval or permit;

C. The modification will not adversely affect reasonable development expectations or the use and enjoyment of adjacent land or the public interest;

D. The modification is in keeping with the spirit and intent of this LDC and will not weaken the purposes of the regulations; and

E. The modification will not adversely affect the public health, safety, and welfare.

(c) Correction of Recorded Final Plats. If it is discovered that there is a minor survey or drafting error in a recorded final plat, a request, in writing, to record a corrected plat shall be submitted to the Administrator. The request shall be accompanied with an affidavit witnessed by a professional land surveyor and approved by the County Surveyor. The surveyor witnessing this corrected plat shall be an impartial observer having no personal interest in the platted land. The Administrator shall thereupon record the corrected plat at the applicant’s expense.

(d) Correction of Scrivener’s Errors. Development approvals other than final plats may be corrected by the Administrator or upon application to the Administrator as follows:

(1) The Administrator may approve an application to reform a scrivener’s error in a development approval, including an error in an application or notice, which error causes the permit or approval to inaccurately reflect the decision-maker’s intent, and where it is demonstrated that:

A. The correction does not include a change of judgment, policy, or prior intent of the decision-maker;

B. The reformation of the permit or approval is essential to ensure that the documentation reflects the intent and decision of the decision-maker;

C. The record, including, but not limited to, the Staff recommendation, minutes, and motion, evidences the clear intent of the decision-maker;
D. The substance of the decision was clearly evident at the time of the decision, and there was no intent to deceive the public or the decision-maker on the part of the current Applicant at any time;

E. Failure to approve the reformation would lead to an unjust result;

F. The error in the development approval did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and

G. Any errors related to public notice did not affect the legal sufficiency of the required notice.

(2) In the alternative, the Administrator, within 30 days of the decision on an application for development approval, may correct a clerical or scrivener’s error in the development approval if:

A. The error is not related to public notice;

B. The error causes the approval, as written, to inaccurately reflect the clear decision of the decision-maker; and

C. The Administrator promptly notifies the applicant and the decision-maker regarding the corrections.

(3) Effect on Approval. A permit or approval that is modified pursuant to this Section shall relate back to the date of the corrected approval, such that the effective date of the corrected language shall be deemed to be the same as the effective date of the original approval.

(e) Major Modifications, Amendments, or Corrections. Modifications, amendments, or corrections that are not authorized by this Section shall be processed in the same manner as a new application for permit or approval.

**Division 8-4. Vested Property Rights**

**Sec. 16-8-400. Applications**

(a) Generally. Except as otherwise provided in Subsection (b) below, an application for approval of a site-specific development plan, as well as the approval, conditional approval or denial of approval of the plan, shall be governed only by the land use regulations in effect at the time an application is submitted to the City. For the purposes of this Section, land use regulations include this LDC, as well as any zoning or development regulations that have previously been adopted for the subject property and that remain in effect at the time of the application for approval of the plan.

(b) Exceptions. Notwithstanding the limitations contained in Subsection (a) above, the City Council may adopt a new or amended regulation when necessary for the immediate preservation of public health and safety and may enforce such regulation in relation to applications pending at the time such regulation is adopted.
Sec. 16-8-401. Vested Property Rights; Establishment
(a) Site Specific Development Plans. The following types of site-specific development plan approvals will establish vested property rights in accordance with Article 68, Title 24, C.R.S.:
   (1) Final planned unit development (“PUD”) plan.
   (2) Final subdivision plat.
   (3) Conditional use permit.
   (4) Development agreement.
(b) Other Approvals; Additional Vested Development Rights. A development agreement may provide for vesting of additional development rights, and/or for a longer time period than provided for in Article 68, Title 24, C.R.S. Such a development agreement may be part of a final PUD, final subdivision or conditional use permit approval, or a development agreement may provide for vesting rights in additional types of site-specific development plans than those specified above, including but not limited to annexation agreements.
(c) Establishment of Vested Rights. A vested property right shall be deemed established with respect to any property upon the approval or conditional approval by resolution or ordinance of a site-specific development plan establishing vested right, following notice and public hearing.
(d) Effect of Vested Rights. A vested property right shall attach to and run with the subject property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan or development agreement, including any amendments thereto.

Sec. 16-8-402. Notice of Hearing and Decision; Form of Approval
(a) Generally. No site-specific development plan which establishes a vested property right shall be approved unless and until notice thereof has been given and a public hearing thereon has been conducted.
(b) Timing of Notice of Public Hearing. At least 15 days’ notice of the time and place of the hearing shall be published in a newspaper of general circulation in the City. Notice of said public hearing shall include language stating that the approval or conditional approval of the site-specific development plan will create a vested property right.
(c) Form of Approval. Final approval from the City Council shall be by ordinance or resolution. A site-specific development plan shall be deemed approved on the effective date of the approving ordinance or resolution.

Sec. 16-8-403. Notice of Final Approval
(a) Generally. Approval of vested rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such right to referendum or judicial review shall not begin to run until the date of publication, in a newspaper of general circulation within the City, of the notice specified in this Section
advising the general public of the site-specific development plan approval and creation of a vested property right pursuant to Title 24, Article 68, C.R.S.

(b) Notice of Final Approval. As soon as practicable following the date a site development plan is approved as provided in Section 16-8-402, above, and not later than 14 days following such approval date, the City Clerk shall cause a notice to be published advising the general public of the site-specific development plan approval and creation of a vested property right pursuant to Article 68, Title 24, C.R.S. Such notice shall be substantially in the following form:

Notice is hereby given to the general public of the approval of a site-specific development plan, and the creation of a vested property right pursuant to Title 24, Article 68, C.R.S., pertaining to the following described property:

[The property shall be described in the notice, and appended to said notice shall be the ordinance or resolution granting such approval.]

Sec. 16-8-404. Requirements of Ordinance or Resolution

Any ordinance or resolution approving a site-specific development plan shall, but not by way of limitation, include the following provisions, unless expressly exempted by the City Council:

1. The rights granted by the site-specific development plan shall remain vested for a period of three years (or such longer period as may be established in a development agreement) from the effective date of the approval. However, any failure to abide by any of the terms and conditions attendant to the approval shall result in the forfeiture of said vested property rights. Failure to properly record all plats and agreements required of the developers to be recorded by City ordinance shall also result in the forfeiture of said vested property rights.

2. The approval granted hereby shall be subject to all rights of referendum and judicial review, except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication provided for in LDC §16-8-403.

3. Zoning that is not part of the site-specific development plan approved hereby shall not result in the creation of a vested property right.

4. Nothing in this approval shall exempt the site-specific development plan from subsequent reviews and approvals required by this approval or the general rules, regulations and ordinances of the City, provided that such reviews and approvals are not inconsistent with this approval.
(5) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulations by the City, including but not limited to building, fire, plumbing, electrical, and mechanical codes. In this regard, as a condition of this site-specific development approval, the applicant shall abide by any and all such applicable building, fire, plumbing, electrical, and mechanical codes, unless an exemption therefrom is granted in writing.

Sec. 16-8-405. No Rights Created

Nothing in this Division is intended to create any vested property right other than those that are available to applicants pursuant to the provisions of the Vested Rights Statute (Article 68, Title 24, C.R.S.) In the event of the repeal or invalidation of the Vested Rights Statute, this Division shall be deemed to be repealed and the provisions hereof no longer effective.

Sec. 16-8-406. Exceptions

A vested property right, once established by this approval, shall preclude any zoning or land use action by the City or pursuant to an initiated measure which would alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the site-specific development plan, except:

(1) With the consent of the applicant;

(2) Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the property, which hazards could not reasonably have been discovered at the time of this approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; or

(3) To the extent that compensation is paid as provided in Article 68, Title 24, C.R.S.

Division 8-5. Minor Modifications, Variances, and Administrative Appeals

Sec. 16-8-500. Minor Modifications

(a) Generally. The Administrator may grant the minor modifications to this LDC or to a PDP or FDP as set out in this Section, subject to the applicable standards of this Section.

(b) Dimensional and Bulk Standards.

(1) The Administrator may grant a modification of up to 20 percent of any lot size; lot width; or building, structure or parking area setback, provided that such modification:

A. Does not allow encroachment into a sight visibility triangle; and

B. Does not interfere with the use of an existing easement unless the easement is relocated or the impact is otherwise mitigated in a manner that is acceptable to the easement holder; and
C. Does not materially conflict with public safety (e.g., by increasing fire or flood hazard, or interfering with emergency access).

(2) The Administrator may grant a modification of up to 10 percent of any building or structure height or lot coverage standards, provided that:

A. The applicant demonstrates that there is a need for such modification due to the physical demands of the intended use of the building;

B. The building, as modified, will not impose building mass on adjacent properties in a manner that materially reduces the light and air available to them; and

C. The modification does not cause nonconformity with respect to parking, landscaping, or drainage requirements.

(c) Landscape Buffers. The Administrator may grant a modification of up to 20 percent of the width of required landscape buffer areas, provided that the landscape buffer accommodates all of the required plantings. The Administrator may grant a reduction in quantitative planting requirements of up to 20 percent if the level of buffering is not materially affected and the proposed plantings are more suitable due to soil types, topography, or other site-specific constraints.

(d) Parking. The Administrator may grant a modification of up to 20 percent of the number of required off-street parking spaces (but not more than 10 spaces) if it is demonstrated that such reduction is appropriate to:

(1) Preserve an historic building or historic landmark; or

(2) Provide drainage improvements that could not otherwise be reasonably accommodated.

(e) Prohibitions. In no circumstance shall the Administrator approve a minor modification that is not listed specifically in subsections (b) through (d), inclusive, or that will result in any of the following:

(1) An increase in permitted maximum development density or intensity;

(2) A change in permitted uses or mix of uses, unless the proposed change is substantially consistent in terms of intent, purpose and impact, with the existing approved plan; or

(3) An increase in the size of the total approved floor area by more than 20 percent.

Sec. 16-8-501. Variances

(a) Generally. Variances may be granted to the standards of this LDC, except Article 2 and Division 3-2, as provided in this Section.

(b) Decision-maker. Variances are decided by the Board of Adjustment, or, if delegated by the Board of Adjustment with the consent of the applicant, variances are decided by the Hearing Officer.
(c) **Conditions of Approval.** In granting any variance, the decision-maker may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this LDC.

(d) **Standards.** The decision-maker may grant a variance only if it makes findings that all of the following requirements, insofar as applicable, have been satisfied:

1. That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
2. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
3. That, because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Chapter;
4. That such unnecessary hardship has not been created by the applicant;
5. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property; and
6. That the variance, if granted, is a minimum variance that will afford relief and is the least modification possible of the provisions of this LDC.

**Sec. 16-8-502. Administrative Appeals**

(a) **Purpose.** The purpose of Administrative Appeals is to provide an opportunity for an aggrieved party to seek timely and inexpensive review of a final decision of the Administrator, HPO, HPC, Hearing Officer, or Planning Commission.

(b) **Appellate Body.** Appeals are heard by the following Appellate Bodies:

1. Final decisions of the Administrator or Hearing Officer are heard by the Board of Adjustment
2. Final decisions of the HPO are heard by the HPC
3. Final decisions of the Planning Commission or HPC (except in its appellate capacity) are heard by the City Council

(c) **Process.**

1. Appeals of final decisions may be taken by any person who is aggrieved and directly affected by such decision in a manner that is materially different from other members of the public.
2. Appeals must be filed within 21 days of the decision being appealed.
3. The appellant shall file a notice of appeal with the Administrator specifying the grounds for such appeal with sufficient specificity to allow the parties to prepare for
the appeal hearing. General references, such as “the decision violated the LDC” are not sufficient.

(4) Accompanying the notice of appeal shall be a filing fee of one-half (½) of the zoning amendment fee (said fee may be waived by the City Council upon application and demonstration of hardship by the appellant). The Administrator shall immediately transmit to the Appellate Body the appellant’s notice of appeal and all papers constituting a record of action upon which the appeal was taken.

(5) The Appellate Body shall conduct a public hearing on the appeal within 45 days after it is filed. The appellant may appear in person or by agent or attorney. The Appellate Body may affirm, reverse wholly or partly or modify the action and to that end shall have all powers of the Administrator.

(d) **Automatic Stay.** An appeal stays all proceedings and furtherance of the action appealed unless the officer from whom the appeal was taken certifies to the Appellate Body, after the notice of appeal was filed with him or her, that, by reason of fact stated in the certificate, the stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by a restraining order which may be granted by the Appellate Body or by a court of record on application, on notice to the officer from whom the appeal was taken and on good cause shown.

### Division 8-6. Enforcement and Remedies

#### Sec. 16-8-600. Violations

(a) **Generally.** If the Administrator finds or if any person files a complaint in writing alleging that any of the provisions of this LDC are being violated, the Administrator shall immediately investigate and, when necessary, give written notice to the person responsible to cease such violations forthwith.

(b) **Method of Notice.** Written notice may be delivered in person or by certified mail to the violator or to any person in charge of property where the violation is occurring.

(c) **Legal Action.** If the violation which is the subject of the notice delivered by the Administrator is not remedied within a reasonable time or a time set by said Administrator, action may be brought against the party in violation pursuant to this LDC and any other appropriate legal process may be undertaken by the City to remedy the violation.

#### Sec. 16-8-601. Penalty for Violation

The owner of any land, building, premises or part thereof where anything in violation of this LDC exists or is placed or maintained; any architect, builder or contractor who assists in the commission of any such violation, and all persons who violate or maintain any violation of any of the provisions of this LDC or who fail to comply therewith or with any requirements thereof or who build in violation of any statement or plan submitted and approved thereunder, for each and every violation or noncompliance, shall be punished as set forth in Section 1-4-20, Central City Municipal Code.
Each such person shall be guilty of a separate offense for each and every day during any portion of
which any violation of any provisions of this Chapter is committed, continued or permitted by such
person, and he or she shall be punished accordingly.

Article 9. Word Usage, Measurements, Calculations, Acronyms, and
Definitions

Division 9-1. Word Usage, Measurements, and Calculations

Sec. 16-9-100. Word Usage; Rules of Construction

(a) For the purpose of this Chapter and when not inconsistent with the context:

(1) Words used in the present tense include the future.
(2) Words in the singular include the plural.
(3) Words in the plural include the singular.
(4) The masculine includes the feminine.
(5) The word shall is mandatory and not directory.
(6) The word may is permissive.
(7) The particular controls the general.

Sec. 16-9-101. Measurements

(a) Building Coverage. Building coverage is the total area covered by the ground floor of
buildings on a lot or subject property.

(b) Building Height. Building height means the measurement from the average existing grade
across the front building line (the “POINT OF MEASUREMENT”), measured at major corners of
the building on the front elevation, to the higher of:

(1) The highest midpoint of a sloped roof system; or
(2) The top of the highest parapet of a flat roof system.

(c) Floor Area. Floor area is measured as the sum of the following areas:

(1) The area of the floor planes of all floors in buildings, measured within the
boundaries of the inside building wall planes of the building story being measured,
less that area on each floor that is occupied by voids (e.g., elevator shafts, except on
the lowest floor; areas open to lower floors); and

(2) Outside areas that increase the intensity of a use that is located within the building
in a comparable manner to indoor floor area, such as outdoor and rooftop dining
areas and permanent outdoor merchandise displays. Courtyards, plazas, and other
comparable areas are not included unless they are used as an active extension of a particular use.

(d) **Lot Area.** Lot area is the total land area within the boundary lines of a lot. Lot area does not include any part of abutting streets or alleys, unless such streets or alleys have been vacated and incorporated into the lot.

(e) **Lot Frontage.** Lot frontage is the length of the lot lines that abut a street.

(f) **Lot Depth.** Lot depth is the average horizontal distance between front and rear lot lines.

(g) **Lot Width.** Lot width is the distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established front building setback line.

**Sec. 16-9-102. Calculations**

(a) **Building Coverage Ratio.** Building coverage ratio is the building coverage divided by the total area of the lot or subject property upon which the buildings are located.

(b) **Density.** Density is calculated as the number of dwelling units that are allowed per acre of a subject property. Where a density limitation, when applied to a particular subject property, would purport to allow a fractional unit, the fraction is rounded down to the nearest whole number.

(c) **Landscape Surface Ratio.** Landscape surface ratio is the total area of natural landscape (whether vegetated or not) and vegetated areas divided by the total area of the lot or subject property upon which the buildings are located.

**Division 9-2. Acronyms and Definitions**

**Sec. 16-9-200. Abbreviations and Acronyms**

The following abbreviations and acronyms are used in this LDC:

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>ac.</td>
<td>Acre</td>
</tr>
<tr>
<td>ADA</td>
<td>Americans with Disabilities Act</td>
</tr>
<tr>
<td>ADA 502</td>
<td>2010 ADA Standards for Accessible Design § 502, as amended from time to time, and however subsequently titled or numbered</td>
</tr>
<tr>
<td>AOC</td>
<td>Administrative Settlement and Order and Consent</td>
</tr>
<tr>
<td>Art.</td>
<td>Article</td>
</tr>
<tr>
<td>BMP</td>
<td>Best Management Practice</td>
</tr>
<tr>
<td>C.O.</td>
<td>Certificate of Occupancy</td>
</tr>
<tr>
<td>C.R.S.</td>
<td>Colorado Revised Statutes</td>
</tr>
<tr>
<td>CDPHE</td>
<td>Colorado Department of Public Health and Environment</td>
</tr>
<tr>
<td>COA</td>
<td>Certificate of Appropriateness</td>
</tr>
<tr>
<td>dBA</td>
<td>A-weighted Decibels</td>
</tr>
<tr>
<td>Div.</td>
<td>Division</td>
</tr>
</tbody>
</table>
TABLE 16-9-200
ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>du</td>
<td>Dwelling Unit</td>
</tr>
<tr>
<td>du/ac.</td>
<td>Dwelling Units per Acre</td>
</tr>
<tr>
<td>e.g.</td>
<td>For Example (followed by a non-exclusive list)</td>
</tr>
<tr>
<td>EOPC</td>
<td>Engineer’s Opinion of Probable Cost</td>
</tr>
<tr>
<td>EPA</td>
<td>United States Environmental Protection Agency</td>
</tr>
<tr>
<td>ft.</td>
<td>Feet</td>
</tr>
<tr>
<td>HPC</td>
<td>Historic Preservation Commission</td>
</tr>
<tr>
<td>HPO</td>
<td>Historic Preservation Officer</td>
</tr>
<tr>
<td>IGA</td>
<td>Intergovernmental Agreement</td>
</tr>
<tr>
<td>LDC</td>
<td>City of Central Land Development Code</td>
</tr>
<tr>
<td>If.</td>
<td>Linear Feet</td>
</tr>
<tr>
<td>N/A</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>NPDES</td>
<td>National Pollutant Discharge Elimination System</td>
</tr>
<tr>
<td>OU</td>
<td>Operable Unit</td>
</tr>
<tr>
<td>PC</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>PUD</td>
<td>Planned Unit Development</td>
</tr>
<tr>
<td>Sec.</td>
<td>Section</td>
</tr>
<tr>
<td>sf.</td>
<td>Square Feet</td>
</tr>
<tr>
<td>sp.</td>
<td>Parking Space (or Parking Spaces)</td>
</tr>
<tr>
<td>U.S.</td>
<td>When preceded and followed by numbers, United States Reports (a Supreme Court Reporter); otherwise United States</td>
</tr>
<tr>
<td>WCF</td>
<td>Wireless Communications Facilities</td>
</tr>
<tr>
<td>WUI</td>
<td>Wildland-Urban Interface</td>
</tr>
</tbody>
</table>

Sec. 16-9-201. Definitions

As used in this Chapter, the following words shall be construed to have the meanings defined below:

**110kV+ POWER TRANSMISSION LINES** means high voltage (100 kilovolts or more) power lines that are used to transmit electricity over long distances.

**ACCESSORY BUILDING OR STRUCTURE** means a building or structure that is detached from, yet associated with and subordinate to a principal building or structure (e.g., a shed, ball field lighting, small wind generator, ground or pole-mounted photovoltaic panels or solar water heaters, amateur radio antennae, fencing, swimming pools, gazebos, detached garages, etc.).

**ADMINISTRATOR** means the Central City Zoning Administrator or designee.

**ADULT DAY CARE** means a facility that is certified by the State of Colorado to provide health and social services on a less than twenty-four-hour basis to elderly, blind, or disabled adults. The phrase “adult day care” also includes “respite care,” which means a facility that provides temporary care or supervision of individuals with developmental disabilities, mental illness, or who are elderly, wherein care is provided because the individual's family or caregiver is temporarily unable or unavailable to provide care.

**AIRPORT** means an area of land that is designated for the take-off and landing of aircraft, which may include areas for ticketing, security, aircraft maintenance, luggage or cargo handling, ground transportation services, and accessory retail and restaurant uses, as well as safety zones.
**ALLEY** means a minor way which is used primarily for vehicular service access to the rear or side of lots or parcels that otherwise have frontage on a street.

**ASSISTED LIVING OR CONGREGATE CARE** means a residential facility that provides meals and assistance with daily activities, such as dressing, grooming, and bathing, for the elderly or adults who are unable to manage these activities themselves.

**ATTACHED FACILITIES** means wireless telecommunications facilities that are attached to buildings.

**BALCONY, OPEN** means an unroofed, cantilevered platform extending from the wall of a building above the ground floor, enclosed only by an open railing.

**BAR, TAVERN, OR NIGHTCLUB** means a use engaged in the sale of alcoholic beverages for on-premises consumption, where such sales account for more than 50 percent of gross revenues. Such uses may include entertainment or dancing, but the phrase “bar, tavern, or nightclub” does not include the phrase “sexually-oriented business.”

**BASEMENT** (or cellar) means a story of a building wherein more than one-half (½) of the floor-to-ceiling height is below grade.

**BED AND BREAKFAST** means one or more single-family residential buildings that, combined, include not more than six guest rooms used for the provision of transient lodging, and in which:

1. Lodging is provided to not more than 12 guests at a time;
2. Guests stay for terms of 28 days or less;
3. Guest rooms do not include cooking facilities;
4. Only the breakfast meal is provided for the guests; and
5. A host resides on the premises.

A bed and breakfast use may include more than one property as a single “premises,” provided that the properties are under common ownership, not further than 500 feet apart.

**BOARDING OR ROOMING HOUSE** means a use other than a hotel or bed and breakfast where, for compensation and by prearrangement for definite periods lasting one week or longer, meals and/or lodging are provided for three or more persons, but not exceeding 20 persons who are not members of the owner’s or operator’s immediate family.

**BUILDING** means any permanent structure that provides a walled and roofed enclosure, that is designed for the shelter or enclosure of persons, animals, chattels or property.

**BUILDING CODE** means the City of Central Building Code (see Chapter 18, Building Regulations, Central City, Colorado, Municipal Code).

**BUILDING OFFICIAL** means the Building Official of the City.

**BUFFERYARD** means an area of land that is landscaped or improved in order to provide a visual or functional buffer between the subject property and adjacent property or adjacent rights-of-way. There are five types of Bufferyards specified in Section 16-5-403, Bufferyard Landscaping.
CAMPGROUND, RV PARK, OR RESORT CABINS means a development that has been planned, improved, or used for the placement of three or more tents, recreational vehicles, or cabins for transient occupancy (not more than 90 consecutive days, with not less than 30 days between occupancies by the same person), and which may include recreational amenities such as fishing, boating, hiking, or access to hunting areas.

CEMETERY OR MAUSOLEUM means a place in which there is provided space either below or above (mausoleum) the surface of the ground for the interment of the remains of human bodies. The phrase “cemetary or mausoleum” does not include private family burial sites.

CENTRAL CITY/CLEAR CREEK SUPERFUND SITE means those areas that are designated as the Central City/Clear Creek Superfund Site by the U.S. Environmental Protection Agency (EPA) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., as amended. EPA added the Central City/Clear Creek Superfund Site to the National Priorities List in 1983 and the Site was subsequently divided by the EPA and CDPHE into four operable units (“OU”).

CERTIFICATE OF APPROPRIATENESS means a resolution approved by the HPC, or in certain circumstances by the HPO, which affirms the City’s approval of the appropriateness of a construction or demolition plan in terms of protection of historic and architectural character.

CHILD CARE CENTER means a facility, by whatever name known, that is maintained for the whole or part of a day for the care of five or more children who are 18 years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The phrase “child care center” includes, but is not limited to:

1. Facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children;
2. Facilities that give 24-hour care for children; and
3. Facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the phrase does not apply to any kindergarten that is maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district’s preschool program operated pursuant to article 28 of title 22, C.R.S.

The phrase shall not include any facility that is licensed as a family child care home, a foster care home, or a specialized group facility that is licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(36), but that is providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance.

CHILDREN’S RESIDENT CAMP means a facility operating for three or more consecutive twenty-four-hour days during one or more seasons of the year for the care of five or more children, which has as its purpose a group living experience offering education and recreational activities in an outdoor
environment (the recreational experiences may occur at the permanent camp premises or on trips off the premises).

**CITY** means the City of Central, Colorado.

**CITY CHARTER** means Home Rule Charter for the City of Central, Colorado, dated December 3, 1991, as may be amended from time to time.

**CLUMPS**, when used in the context of fire mitigation planning, means groups of trees where crowns are less than 10 feet apart.

**COLLEGE OR UNIVERSITY** means an educational institution that is authorized by the State of Colorado or other nationally recognized accrediting entity to award associates’ or higher degrees.

**COMMERCIAL CROP OR ANIMAL PRODUCTION** means the use of land to grow agricultural products (e.g., food or fiber), or to produce animals or livestock, but not concentrated animal feeding operations.

**COMMERCIAL EQUESTRIAN FACILITIES** means facilities that provide for boarding, training, or riding horses or other equids. Such facilities are commonly known as boarding stables, riding halls, or riding arenas.

**COMMERCIAL VEHICLE** means:

1. Any motor vehicle, trailer, or semi-trailer that:
   A. Is designed or used to carry freight, other vehicles, equipment, passengers for a fee, or merchandise in the furtherance of any business enterprise; and
   B. Has a gross weight of more than 10,000 pounds;

2. Any step van or truck that is designed for commercial moving or parcel delivery services;

3. Any truck that is used for mobile retail sales (e.g., ice cream, lunches);

4. Any vehicle with more than four wheels that is used for business purposes;

5. Any trailer that is used to haul machinery, supplies, or equipment for business purposes (horse trailers, boat trailers, motorcycle trailers, RV trailers, and car trailers put to personal use are not included in the definition);

6. Any trailer that is used for commercial hauling (e.g., waste, junk, or lawn clippings), or commercial moving services;

7. Any vehicle which has permanently mounted outside brackets or holders for ladders, tools, pipes, or other similar equipment, unless such vehicle is used for on-call emergency services contracted by the City or other governmental entity.

**COMMUNICATIONS TOWER** means a principal structure that is principally intended to support wireless telecommunications equipment for telephone, radio, and similar wireless telecommunications purposes. Communications towers are generally described as either monopole (freestanding), lattice (self-supporting), or guyed (anchored with guy wires or cables).
COMMUNITY GARDEN means a private or public area of land that is used for the noncommercial cultivation of fruits, herbs, flowers, vegetables, or ornamental plants by two or more unrelated persons or families.

COMPREHENSIVE PLAN means the Comprehensive Plan for the City that has been officially adopted by the Planning Commission and accepted by the City Council, to provide long-range development policies for the City.

CONCENTRATED ANIMAL FEEDING OPERATION (livestock confinement area) means a place where cattle, calves, sheep, swine, horses, mules, goats, fowl, or other animals are corralled, penned, tethered or otherwise caused to remain in pens or corrals, and where feeding is by other than grazing.

CONSTRUCTION VEHICLE means:

1. Any tracked vehicle used for construction, grading, or excavation, such as bulldozers, excavators, drilling machines for mining or driving piles, cranes, and comparable vehicles;
2. Any wheeled vehicle that is used for construction that uses off-highway tires, including loaders, graders, soil compactors, skidders, and comparable vehicles;
3. Dump trucks;
4. Cement mixer trucks; or
5. Bucket trucks.

CONTINUING CARE means a development or facility that provides a mix of at least two of the following: (1) age-restricted housing; (2) assisted living or congregate care; and (3) nursing home, Alzheimer’s care, or memory care, with nursing home, Alzheimer’s care or memory care constituting not more than 40 percent of the beds in the development or facility.

CONVALESCENT CENTER, ALZHEIMER’S CARE, MEMORY CARE, OR NURSING HOME means a facility that provides continuous day and night room and board, personal services, and medical care (and supervision as necessary) for compensation, for elderly or infirm persons who are not related to the owner or operator of the home, pursuant to applicable state licenses, but not including group homes.

COOKING FACILITIES means standard, full size, major appliances normally found in kitchens, which are used in the storage, preparation, and cooking of food. The phrase “cooking facilities” does not include small appliances such as microwave ovens, small refrigerators, coffee makers, or similar devices, or areas for their use.

COTTAGE means a single-family detached dwelling unit with a building footprint of not more than 800 square feet.

COTTAGE INDUSTRY means a business use of the home that is more intensive than a “home occupation,” and that is allowed under certain conditions that are set out in Section 16-3-502, Cottages Industries.

CROWN means the outer edge of tree or clumps of trees.
**DOG RUN** means an outdoor enclosure (usually, but not necessarily, constructed from wire or chain-link), which may include a roof structure, designed to secure or contain dogs or other household pets.

**DUPLEX** means a building that contains two separate single-family dwelling units that do not share living areas. Duplexes may be configured as side-by-side units that share a party wall or as multi-story buildings in which one unit is located over the other unit. The word “duplex” also includes “pull apart” duplexes, which are two single-family detached dwelling units with side walls that are less than six feet apart.

**DWELLING UNIT** means one or more rooms, including a kitchen, that are designed as a separate, independent unit for owner occupancy or for lease on a monthly or longer term by one family, for the purpose of cooking, living, and sleeping.

**EASEMENT** means the right of a third party (which may include the public) to use a landowner’s property for a specific purpose.

**ESSENTIAL SERVICES** means utilities consisting of gas, electrical, steam, or water transmission or distribution systems; collection, communication, or supplier-disposal systems (including poles, pedestals, vaults, antennas, transmitters, wires or cables, fiber optic lines, coaxial cable lines, drains, sewers, pipeline mains and laterals, conduits, fire-alarm boxes, police callboxes, traffic signals, hydrants, lift stations, and other similar equipment and accessories in connection therewith) that are reasonably necessary for the furnishing of adequate service by such utilities or municipal departments or commissions.

**EX PARTE COMMUNICATION** means any material oral or written communication relevant to the merits of a pending adjudicatory proceeding that is neither on the record nor on reasonable prior notice to all parties that takes place between:

1. An applicant or other interested person (including such person’s counsel); and
2. A member of the Planning Commission, Historic Preservation Commission, Board of Adjustment, or City Council.

**EXTRACTION (MINERALS)** means extraction of coal or other mineral resources (including sand and gravel, but not oil and gas) from the land (surface or subsurface). The phrase “resource extraction, minerals” does not include cut and fill operations within a property, construction of canals or reservoirs, or the removal and transportation of fill from one property to another as part of an approved development plan, provided that both properties are controlled by the same landowner.

**EXTRACTION (OIL AND GAS)** means exploration for and production of oil or natural gas.

**FAMILY** means either of the following:

1. A group of persons living together as a single housekeeping unit, who are related by blood, marriage or adoption, and a reasonable number of domestic servants; or
2. A group of not more than three (3) unrelated persons living together as a single housekeeping unit, and who share the use and cost of common facilities.
**FAMILY BURIAL SITE** means an accessory use of private residential or agricultural property for the interment of the remains of friends or relatives of the private landowner, where such area is not operated or maintained by a public entity or business that inters people in the ordinary course of business, and such area is not open or available to the general public.

**FAMILY CHILD CARE HOME** means a private residence used for the daytime care of children who are not related to the homeowner. Most Family Child Care programs are licensed for up to six children, with a limited number of infants.

**FENCE** means a freestanding structural barrier that is used for confinement, screening, or partition purposes.

**FINAL PLAT** means a map that is prepared as an instrument for recording with the County Clerk, showing the boundaries of one or more lots, tracts, or parcels, and the original parcel from which said lots, tracts, or parcels were subdivided.

**FIRE AND RESCUE STATIONS** means headquarters or stations for fire rescue, ambulance, and other first-responder emergency services.

**FIRE CHIMNEY**, in the context of wildfire prevention, means topographical features, usually canyons, gulches or valleys, that tend to funnel or otherwise concentrate fire towards the top of steep slopes. Fire chimneys are generally less than one-half mile in length, have slopes of 20 percent or steeper, are less than 600 feet wide, and are at least 120 feet deep as measured from the bottom of the ravine to the crest of either adjacent ridge or slope.

**FRONT BUILDING LINE** means a horizontal line across the portion of the primary façade of a building that is closest to the street.

**FUNERAL HOME OR MORTUARY** means a building that is used principally for:

1. Human funeral services;
2. Embalming and the performance of other services used in the preparation of the dead for burial;
3. The performance of autopsies and other tests or surgical procedures on human remains; or

In addition to the above functions, funeral homes or mortuaries may also store caskets, funeral urns, hearses, and other vehicles used in funeral processions.

**GAMING** means the use of slot machines, card games (video or otherwise) of blackjack and poker or as otherwise defined by the State of Colorado relative to limited stakes gaming.

**GOLF COURSE OR DRIVING RANGE** means the ground or course upon which golf is played (golf course), or a tract of land that is designated for practicing long golf shots, especially drives (driving range).

**GROUP HOME** means a dwelling unit, in which care or assistance with daily tasks is provided for six to eight unrelated individuals. There are four types of group homes:
(1) **GROUP HOME FOR DEVELOPMENTALLY DISABLED PERSONS.** A state-licensed group home exclusively for the care of persons with developmental disabilities, as defined and regulated by the Colorado Department of Human Services, Division for Developmental Services, and the Colorado Department of Public Health and Environment.

(2) **GROUP HOME FOR ELDERLY PERSONS.** A group home of persons 60 years of age or older who do not require medical attention associated with a residential health care facility. Group homes for elderly persons shall be licensed as an assisted living residence or alternative care facility by the Colorado Department of Public Health and Environment.

(3) **GROUP HOME FOR MENTALLY ILL PERSONS.** A state-licensed group home exclusively for the care of persons with mental illness, as defined and regulated by the Colorado Department of Public Health and Environment.

(4) **GROUP HOME FOR CHILDREN AWAITING DISPOSITION.** A state-licensed group home for children up to 18 years age who are not related to the head of the household, and who are awaiting disposition to foster homes or other accommodations.

**GUEST ROOM** means a room in a hotel, motel, bed and breakfast, or boarding house offered to the public for temporary occupancy for compensation.

**HALFWAY HOUSE** means a residential facilities that provides residences for convicts, recovering drug users, recovering alcoholics, or people who are discharged from inpatient mental health facilities, which serves as a transitional environment between confinement and return to society.

**HEAVY INDUSTRY** means industrial uses that are not specifically defined elsewhere in this LDC, which can be described in one of the following four ways:

(1) Primary processing or manufacturing or repair operations not specifically defined elsewhere in this Article or this definition, which involve:

   A. A material risk of significant environmental contamination, explosion, or fire;
   B. Perceptible ground vibration at the property line;
   C. Excessive noise or dust emissions at the property line and downwind;
   D. Large-scale outdoor storage of inputs or products;
   E. Significant outdoor installations of processing equipment;
   F. Outside emission of objectionable odors;
   G. More than 14 trips by semi trailer trucks per week; or

(2) Processing of minerals (except precious and semi-precious stone cutting for jewelry or precision instruments such as lasers or watches), ores, logs, pulpwood, or fossil fuels; or
(3) Activities that are required to undergo New Source Review under the Federal Clean Air Act, or are subject to construction or operation permits pursuant to the Colorado Stationary Sources Program or Title V of the Federal Clean Air Act; or
(4) Activities that are required to obtain a Certificate of Designation under C.R.S. § 25-15-201 (hazardous waste disposal sites), Title 30, Article 20, Colorado Revised Statutes (various other types of disposal sites).

For illustrative purposes, heavy industrial uses include (if they meet the thresholds of this definition), but are not limited to:

1. Coal cleaning plants with thermal dryers; coke oven batteries; carbon black plants (furnace process); petroleum refineries; petroleum storage and transfer units (except retail gasoline stations); and bulk fuel dealers;
2. Facilities used in the primary or secondary production of metals (e.g., primary zinc, copper, or lead smelters; primary aluminum ore reduction plants; iron and steel mills; sintering plants; secondary metal production plants; and blacksmith shops);
3. Portland cement plants;
4. Sawmills and pulp mills;
5. Incinerators with the capacity to charge more than 250 tons of refuse per day;
6. Lime plants; phosphate rock processing plants; sulfur recovery plants; and hydrofluoric, sulferic, or nitric acid plants;
7. Fossil fuel combustion (except for electricity generation) totaling more than 250 million BTUs per hour of heat input;
8. Fabrication of motor vehicles, manufacturing equipment, durable goods, or pre-fabricated homes or home components;
9. Drycleaner processing plants that use large quantities of PERC or comparable petrochemical solvents;
10. Manufacture of plastic products (except assembly of parts that are manufactured elsewhere);
11. Hot mix asphalt plants; and
12. Meat processing involving butchering of large animal carcasses.

Heavy logistics means a wholesaling, warehousing, or distribution use that provides a central location for receiving, storing and distributing raw materials, semi-finished goods, or finished goods. Heavy logistics uses may be warehouses in which goods are stored (a.k.a. "product warehouses"), or truck terminals in which goods are transferred between trucks or between trucks and trains or other transportation modes (a.k.a. "truck terminals" or "logistics centers"), or moving warehouses (including indoor storage of portable on-demand storage containers), or wholesaling operations (but not wholesale membership clubs in which memberships are available to the general public). Heavy logistics centers are expected to generate at least 14 truck trips per week.
Warehousing and distribution uses that involve fewer than 14 truck trips per week are classified as light industry. Wholesale uses that involve fewer than 14 truck trips per week are classified as wholesale.

**HEAVY RETAIL** means retail or service activities that have regular outside service or outside storage areas, exceptionally large floor areas, or partially enclosed structures, as listed below:

1. Permanent retail operations that are located outside of enclosed buildings, except nurseries, motor vehicles, construction vehicles, recreational vehicles, and boats;
2. Home centers;
3. Lumber and other building materials;
4. Lawn, garden equipment, and related supplies stores (with outdoor displays of merchandise);
5. Warehouse clubs; or
6. Super stores (discount retail stores with floor areas larger than 90,000 square feet);

**HEAVY TRUCK** means a commercial vehicle with a gross weight of more than 10,000 pounds, or a length of more than 24 feet.

**HEAVY TRUCK OR RV PARKING LOT** means a parking area that is configured for the temporary parking of commercial vehicles, heavy trucks (including semi-trailers), and recreational vehicles.

**HEDGE** means a barrier or boundary formed by a dense row of shrubs or low trees.

**Heliport** means a facility that is designed to be used for the take-off or landing of helicopters, including operations facilities such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

**Helistop** means an area used for the take-off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. Helistops are not open for general use.

**Historic District** means the Central City - Blackhawk National Historic District, designated on July 4, 1961.

**Historic Landmark** means a structure, site, or constructed landscape feature, either within or outside of the Historic District, designated by the City Council to be of outstanding historic or architectural significance.

**Historic Preservation Commission** (“HPC”) means the Central City Historic Preservation Commission.

**Historic Preservation Officer** (“HPO”) means a City staff member who is responsible for the coordination of applications for COAs and historic surveys, and for decision-making on certain COAs, and such other duties as directed by the City Manager to further the provisions of Article 2, *Historic Preservation*, and to implement the intent of Article XIV of the City Charter with respect to historic preservation.
HOME OCCUPATION means a business use or activity conducted in a dwelling unit or on the same premises as a dwelling unit.

HOSPITAL or EMERGENCY ROOM an institution that is licensed, certified, or approved as a “hospital” or a “community clinic and emergency center” by the Colorado Department of Public Health and Environment, where sick or injured persons are given medical care and, in the course of same, may be housed overnight, fed, and provided nursing and related services.

HOSTEL means a facility that offers residence to guests for terms of one month or less, which:

1. Provides simple dormitory or sleeping rooms and common rooms for cooking, meeting, recreational, and educational use;
2. Is chartered and approved by the International Hostel Federation or its national or regional affiliates, or comparable organizations; and
3. Is supervised by resident houseparents or managers who direct the guests’ participation in the domestic duties and activities of the facility.

HOTEL means a building or group of buildings in which six or more guest rooms are used to provide accommodations for transient guests for compensation. Hotels may also provide services such as meeting rooms, ballrooms, business centers (personal computers, fax machines, and printers for guest use), food service, and recreational facilities such as swimming pools and fitness centers.

INDOOR AMUSEMENT, RECREATION, OR ENTERTAINMENT means uses that provide commercial amusement (except sexually-oriented theater / dancing establishments, nightclubs, and gaming), uses that provide indoor recreation or fitness activities or training, and uses that provide indoor amusement. Such uses include, but are not limited to:

1. Bowling alleys;
2. Concert halls;
3. Dance halls that do not serve alcohol (dance halls that serve alcohol are “nightclubs”);
4. Dance instruction;
5. Game arcades (*e.g.*, video games, skee ball, and comparable amusement machines);
6. Gymnastics instruction;
7. Health clubs;
8. Indoor playgrounds (may include conventional playground equipment, inflatables, trampolines, rock climbing walls, zip lines, and comparable equipment);
9. Indoor pools;
10. Indoor skating rinks (ice or roller);
11. Laser tag;
12. Local area network (“LAN”) gaming centers;
(13) Martial arts, boxing, or kickboxing training;
(14) Pool / billiard rooms;
(15) Shooting arcades (but not indoor shooting ranges); or
(16) Theaters (stage or movie).

**INDOOR SHOOTING RANGE** means the use of a building for archery or the discharging of firearms for the purposes of target practice. Excluded from this use type are amusements that simulate shooting but do not involve potentially lethal projectiles (*e.g.*, laser tag, foam darts, etc.), which are classified as “indoor amusement, recreation, or entertainment.”

**IRRIGATION DITCH OR CANAL** means a channel designed to transport irrigation water, or a pipeline used to transport irrigation water, and associated structures, appurtenances, service roads, and rights-of-way (whether held in fee-simple ownership or as easements).

**JUNK** means worn-out, cast-off, or discarded articles and materials (*e.g.*, construction waste, scrap metal, scrap lumber, worn out tires, etc.), and materially damaged, wrecked or otherwise obviously inoperable vehicles, machinery, and household appliances. Junk does not include articles or materials that unaltered or unchanged and without further reconditioning, can be used for their original purpose as readily as when new.

**KENNEL** means a facility in which four or more household pets of the same species are temporarily housed, groomed, bred, boarded, or trained, and may also be incidentally treated for medical conditions. Kennel includes for-profit facilities; as well as not-for-profit or public facilities at which abandoned or rescued animals are housed and offered for adoption. Kennels may also sell animals. The term “kennel” also includes the use commonly known as “doggy day care.”

**LADDER FUELS** means vegetation of different heights, close enough to allow a surface fire to spread vertically to the top of a tree.

**LIGHT INDUSTRY** means land uses that involve research and development, assembly, remanufacturing, compounding, packaging, testing, or treatment of products, generally from previously prepared materials or components, with limited outside storage and limited external impacts or risks such that the use is not defined as “heavy industry” or “heavy logistics.” Light industry also includes warehousing and distribution uses that involve fewer than 14 truck trips per week. For illustrative purposes, light industrial uses may include (unless they are at a scale that results in a classification of “heavy industry”):

(1) Assembly, testing, repair, or refurbishing of products, instruments, electronics, office and computing machines, and fixtures using pre-manufactured components;

(2) Offices of general contractors; specialty subcontractors; tradesmen; or telecommunications providers that include:
   A. Overhead door access to indoor storage of tools, parts, and materials;
   B. Parking of commercial vehicles or a fleet of cars, vans, or light trucks that are used in the business; or
   C. Limited outdoor storage areas;
(3) Food production (e.g., commercial kitchen or bakery) and packaging, but not:
   A. Meat processing involving butchering of large animal carcasses;
   B. Medical marijuana-infused products manufacture; or
   C. Restaurants;
(4) Beverage production (alcoholic and non-alcoholic) and bottling;
(5) Furniture making or refinishing;
(6) Manufacture of textiles or apparel;
(7) Screen printing of apparel (except low volume screen printing at a retail store);
(8) Printing and publishing, except copy centers;
(9) Research, development, and testing laboratories (e.g., for development of products, equipment, or materials);
(10) Disassembly of consumer electronics or appliances into component parts, where all operations and storage are within an enclosed building;
(11) Manufacture of glass or ceramic products (e.g., window panes, bottles and jars), including hand-blown products;
(12) Fabrication of building materials such as countertops, drywall, and cut stone;
(13) Manufacture or compounding of pharmaceutical products, dietary supplements, health and beauty products, and herbal products; or
(14) Packaging of products.

**LIVE-WORK UNIT** means a building or portion of a building that combines a dwelling unit with an integrated workspace that is principally used by one or more of the residents of the dwelling unit. The workspace is subordinate to the residential use.

**LOT, DOUBLE FRONTAGE** means a lot that runs through a block from street to street, such that its nonintersecting lot lines abut on two or more streets.

**LOT, INTERIOR** means a lot other than a corner lot.

**LOT LINE, FRONT** means the property line dividing a lot from the right-of-way of the street. For a corner lot, the shortest street right-of-way line is generally the front lot line. For a corner lot, double frontage lot, or other comparable situations, the front lot line shall be established by the Zoning Administrator based upon the orientation of buildings and vehicular access on nearby properties, and other appropriate considerations.

**LOT LINE, REAR** means the property line opposite to the front lot line.

**LOT LINE, SIDE** means any lot line other than a front or rear lot line.

**MANUFACTURED HOME** means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities, and which has certification required by the United States
Secretary of Housing and Urban Development and was constructed is in compliance with the requirements of 42 U.S.C. § 5401, et seq., MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS, and the regulations of the Department of Housing and Urban Development that are promulgated thereunder. The phrase “manufactured home” does not include a recreational vehicle, “park model,” or mobile home.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel of land that is divided into two or more spaces for long-term lease (park), or lots for sale (subdivision), with infrastructure and utilities designed for the installation of manufactured homes on the spaces or lots.

MARIJUANA means all parts of the plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from its stalks, oil or cake made from the seeds of the plant or the sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

MARIJUANA CLUB means a business, club, civic club, or any similar organization, that operates as a place of public or private assembly for the purpose of inviting members or non-members to use or consume marijuana.

MEDICAL MARIJUANA means marijuana that is grown and sold pursuant to C.R.S. § 12-43.3-101, et seq., and includes seeds and immature plants (as defined in 1 CCR 212-1).

MEDICAL MARIJUANA CENTER means a facility that is licensed pursuant to C.R.S. § 12-43.3-101, et seq., to operate a business as described in C.R.S. § 12-43.3-402, and that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER means a business as described in C.R.S. § 12-43.3-404, that is licensed pursuant to C.R.S. § 12-43.3-101, et seq.

MEDICAL MARIJUANA TESTING FACILITY means a public or private laboratory licensed and certified, or approved by the Colorado Department of Revenue Marijuana Enforcement Division, to conduct research and analyze medical marijuana, medical marijuana-infused products, and medical marijuana concentrate (as same are defined in 1 CCR 212-1) for contaminants and potency.

MEDICAL OFFICE OR CLINIC means:

(1) Office space used for the examination or treatment of patients on an outpatient basis (with no overnight stays by patients), generally by appointment, by such professionals as: medical doctors (physicians, pediatricians, obstetricians, gynecologists, radiologists, geriatricians, general and specialist surgeons, podiatrists, ophthalmologists, anesthesiologists, etc.); dentists; optometrists; midwives; physical therapists, occupational therapists, and speech therapists; chiropractors, licensed massage therapists, and acupuncturists; nutritionists and homeopaths; psychiatrists, clinical psychologists, clinical social workers, and marriage and family therapists; physiatrists, physiotherapists, orthotics, prosthetics,
recreational therapists, audiologists, respiratory therapists, rehabilitation counselors, prosthetic technicians, and personal care assistants; and other comparable health care professionals; and

(2) A facility that provides medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis, including diagnostic services, treatment, training, administration, and services to outpatients, employees, or visitors, often without appointment, including immediate care facilities, where urgent care treatment is the dominant form of care provided at the facility, and medical laboratories to the extent necessary to carry out diagnostic services for the medical clinic’s patients.

**MINI-LIBRARY** means a free-standing weather-proof structure containing not more than 15 cubic feet of volume, for the outdoor storage and display of books for exchange with City residents or visitors.

**MOBILE HOME** means a dwelling that is built on a chassis designed for long-term residential occupancy, that is capable of being installed in a permanent or semi-permanent location, with or without a permanent foundation, and with major appliances and plumbing, gas, and electrical systems installed (but needing the appropriate connections to make them operable), and that may be occasionally drawn over the public highways, by special permit, as a unit or in sections to its permanent or semi-permanent location. Mobile homes are different from manufactured homes in that they were either constructed before the adoption of 42 U.S.C. § 5401, et seq., MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS, or are otherwise not in compliance with said federal law and its implementing regulations. The phrase “mobile home” does not include the phrase “recreational vehicle.”

**MODIFIED CIVIL LAW RULE** means the legal principal that “natural drainage conditions may be altered by an upper proprietor provided the water is not sent down in manner or quantity to do more harm than formerly” unless the upper proprietor has permission or an easement from the affected downstream landowner.

**MOTOR VEHICLE REPAIR, HEAVY** means:

(1) Repairs to passenger vehicles that are not classified as “motor vehicle repair, light,” including body repairs, paint, upholstery, engine replacement or reconditioning, air conditioning replacement, tire recapping, and custom body work, but not including installation of audio, video, and navigation systems; and

(2) Any type of repairs to commercial vehicles or construction vehicles.

**MOTOR VEHICLE REPAIR, LIGHT** means:

(1) Routine service to passenger motor vehicles which generally takes less than 90 minutes to complete (e.g., tire rotation and balance, brake service, oil changes, glass repair and replacement, fluid changes, etc.); and

(2) Repairs and service to motorcycles, scooters, snowmobiles, ATVs, riding lawnmowers, and other vehicles with engines of less than 1500 cc displacement.
**Motor Vehicle Sales or Rental** means the sale or rental of passenger motor vehicles, commercial vehicles, or construction vehicles from a location where inventory is stored. Outdoor storage of vehicles for brokers is included in the definition of the phrase “motor vehicle sales or rental.” Not included in the definition are:

1. Brokering of vehicles that are stored off-site and delivered directly to customers (an office use); and
2. Indoor storage of vehicles for brokers who are located off-site (a heavy logistics use).

**Motor Vehicle Wash** means any area or business using self-service, in-bay automatic, or conveyor equipment for cleaning and washing motor vehicles, whether as a part of another business operation (e.g., as an accessory use to light automobile service / fueling station or vehicle sales, rental, and service), or as a stand-alone operation, of any type, on a commercial basis. The definition includes fleet and municipal in-bay automatic and conveyor vehicle wash facilities.

**Motorsports Park or Staging Area** means a facility for the operation of off-road vehicles or snowmobiles for practice, education, recreation, or competition, or a designated area where off-road vehicles or snowmobiles are transported by truck, trailer, or other motor vehicle, and then prepared and positioned for access to off-road vehicle trails on public or private property. The phrase “motorsports park or staging area” does not include a location where off-road vehicles or snowmobiles are taken for the purpose of service, maintenance, repair, storage, or sale.

**Multifamily** means a building that includes three or more dwelling units, but not a multiplex. There are two forms of multifamily buildings identified in this Code:

1. **Garden Multifamily**, in which units are directly accessible from the building or buildings (e.g., from ground level or from upper-floor breezeways), and the building or buildings are substantially set back from lot lines and surrounded by landscaping or surface parking, and
2. **Urban Multifamily**, in which units are generally accessible from building hallways (although ground floor units may have direct access to the outside), and buildings are set close to the adjacent street.

**Multiplex** means a building that is designed to appear as a large single-family detached building when viewed from public streets, but is internally divided into three to five individual dwelling units.

**Museum** means a building or place where works of art, scientific specimens, antiques, artifacts, or other objects of permanent value are kept and displayed.

**Off Road Vehicle** means any self-propelled vehicle that is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. The phrase “off-highway vehicle” does not include any of the following:

1. Vehicles designed and used primarily for travel on, over, or in the water;
(2) Snowmobiles;
(3) Military vehicles;
(4) Golf carts;
(5) Vehicles designed and used to carry individuals with disabilities;
(6) Vehicles designed and used specifically for agricultural, logging, or mining purposes; or
(7) Vehicles registered pursuant to article 3 of title 42, C.R.S.

**Off-street loading space** means a space located outside of a street or alley, used for the discharge of passengers, or a space directly accessible to the building it serves that is used for bulk pickups and deliveries by delivery vehicles.

**Off-street parking area** means any parking area located wholly within the limits of one or more lots.

**Office, general** means uses in which professional, administrative, clerical, brokering, real estate, technical support, and financial services are provided. The phrase includes:

(1) Accounting, auditing and bookkeeping;
(2) Advertising and graphic design;
(3) Architectural, engineering, and surveying services;
(4) Attorneys and court reporters;
(5) Banks, mortgage companies; and financial services;
(6) Brokering of motor vehicles, commodities, and other items where the thing brokered is not stored on-site for any length of time;
(7) Business incubators;
(8) Call centers;
(9) Computer programming and data recovery services;
(10) Corporate headquarters;
(11) Data processing and word processing services;
(12) Detective agencies;
(13) Government offices;
(14) Insurance;
(15) Interior design;
(16) Real estate sales and off-site rental offices;
(17) Research and development that does not include on-site manufacturing;
(18) Retail catalog, internet, and telephone order processing, but not warehousing; and
(19) Virtual office services.

**Optional Premises Cultivation Operation** means a business described in C.R.S. § 12-43.3-403, licensed pursuant to C.R.S. § 12-43.3-101, et seq.

**Outdoor Commercial Recreation** means uses of land that provide outdoor recreation opportunities outdoors for the public for compensation. The phrase “outdoor commercial recreation” includes such uses as batting cages, mini-golf, bumper cars, bumper boats, go-cart racing, water slides, or paintball facilities. Outdoor commercial recreation uses may also include indoor or outdoor areas with games, food service, and incidental retail uses (e.g., souvenir shops) that are subordinate to the principal outdoor uses.

**Outdoor Shooting Range** means the use of land for archery or the discharging of firearms for the purposes of target practice or skeet and trap shooting. Excluded from this use type are general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner’s permission. Also excluded are indoor shooting ranges, which are classified as “indoor shooting ranges.”

**Outdoor Storage Yard** means a place for outdoor storage of operable equipment, building or infrastructure construction materials, manufacturing inputs, or recreational vehicles.

**Park with Playfields or Courts** means an area of land for the enjoyment of the public, having facilities for rest and recreation, including soccer or football fields, baseball diamonds, tennis courts, racquetball courts, volleyball, or like facilities for active sports.

**Parking Lot, Surface** means an area of land that is divided into parking spaces and access aisles, designed for parking motor vehicles.

**Parking Structure** means a multilevel structure that is designed for the parking of motor vehicles.

**Passive Parks or Playgrounds** means an area of land, usually in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation, which may include playground equipment.

**Pawnbroker or Check Cashing** means:

1. A business that is regulated by C.R.S. § 12-56-101, et seq., that:
   A. Regularly contracts to advance money to customers on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, has the option to cancel the contract; or
   B. Purchases tangible personal property that has not previously been sold at retail in the course of its business of reselling tangible personal property; or

2. A business that offers short-term loans, generally (but not always) for $500 or less and due on the borrower’s next pay day, wherein the borrower gives the lender access to the borrower’s checking account or writes a check in advance that the lender has the option of depositing when the loan is due; or

3. A business that cashes checks for a fee.
**Pine Needle Removal** means to rake pine needles only down to the decomposing layer, in order to remove fire fuels but avoid erosion problems.

**Place of Assembly** means any of the following:

1. A building or portion thereof that is designed for public gatherings, meetings, or conferences, except as elsewhere defined in this LDC;
2. A building or portion thereof in which persons regularly assemble for religious purposes or related social events;
3. A building or portion thereof that is used for assembly of a membership organization, such as a lodge that serves exclusively its members and their guests, whose activities are limited to meeting, dining, or recreational uses, where activities are not conducted principally for monetary gain.

The phrase “place of assembly” does not include the phrase “marijuana club.”

**Planning Commission** means the Central City, Colorado Planning Commission

**Preliminary Plat** means a preliminary map or maps of a proposed subdivision, which is used as the basis for the design of a final plat.

**Pre-Approved Temporary Use** means a recurring temporary use that is approved as an accessory use of a development during the site plan or comparable approval process. For example, during approval of a mixed-use development, a central plaza could be approved for events programming, such as weekend farmers’ markets. Parking, circulation, and operational issues are considered during the approval process.

**Principal Use** means the principal use of land, which is the use of land on an ongoing basis for a particular purpose, or an ongoing use which occupies permanent buildings or facilities on the land (e.g., a store, a dwelling unit, or a new neighborhood). Principal uses are classified and enumerated in Division 3-3, and defined in this Division. Principal uses that are not listed in the tables of Division 3-3, or specifically prohibited by Section 16-3-309, *Uses That Are Prohibited in All Zones*, may be identified and permitted pursuant to Section 16-3-311, *Uses That Are Not Listed*.

**Private Horse Stable** means any area wherein a horse, mule or donkey is or are maintained for private, noncommercial recreation.

**Private Utility** means any utility other than a municipally owned and operated utility, including but not limited to telephone, cable, fiber-optic, electric, or gas service.

**Property Line** means the boundary of a lot, parcel, or tract.

**Protective Care or Residential Rehabilitation** means a licensed homeless youth shelter as defined in C.R.S. § 26-6-102(17), a day treatment center as defined in C.R.S. § 26-6-102(10), a secure residential treatment center as defined in C.R.S. § 26-6-102(35), an acute treatment unit as defined in 2 CCR 502-1, substance use disorder treatment facilities that provide ASAM Level III residential services as such services are defined in 2 CCR 502-1 (e.g., non-hospital residential
detoxification units), residential child care facilities that are designated to provide mental health services, psychiatric residential treatment facilities, and comparable facilities.

**QUARTZ HILL PROPERTY** means all property located within the boundaries of the Quartz Hill Overlay District, being coterminous with the boundaries of the Quartz Hill Remediation Project’s remedial area, as depicted on the as-built maps of the remedial area maintained by CDPHE and on file with the City Clerk’s Office and the area currently covered by the geotextile and rock cap.

**QUARTZ HILL REMEDIATION PROJECT** means the Quartz Hill Mine Waste Pile Remediation Project completed in 2014 by the EPA and CDPHE in accordance with OU3 Record of Decision dated September 30, 1994.

**QUARTZ HILL OVERLAY DISTRICT** means the overlay district established by Division 5-8, constituting all of the Quartz Hill Property, being coterminous with the boundaries of the Quartz Hill Remediation Project’s remedial area, as depicted on the as-built maps of the remedial area maintained by CDPHE and on file with the City Clerk’s Office.

**RECORDING OR TELEVISION STUDIO** means a facility for the recording and production of audio or video material, such as the recording of music, voice, video, for live broadcast or post-production.

**RESTAURANT** means an establishment that is engaged in the sale of food and beverages in a ready-to-consume state. The use may also include the production and sale of fermented malt beverages, malt, special malt and vinous and spirituous liquors for consumption on the premises.

**RETAIL MARIJUANA STORE** means a business that is licensed to purchase retail marijuana from a retail marijuana cultivation facility, and to purchase retail marijuana product from a retail marijuana products manufacturing facility, and to sell retail marijuana and retail marijuana product to consumers.

**RETAIL MARIJUANA CULTIVATION FACILITY** means an entity that is licensed to cultivate, prepare, and package retail marijuana and sell retail marijuana to retail marijuana establishments, but not to consumers.

**RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY** means an entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana product (as defined in 1 CCR 212-2); and sell retail marijuana and retail marijuana product only to other retail marijuana products manufacturing facilities and retail marijuana stores.

**RETAIL MARIJUANA TESTING FACILITY** means a public or private laboratory that is licensed and certified, or approved by the Colorado Department of Revenue Marijuana Enforcement Division, to conduct research and analyze retail marijuana, retail marijuana products and retail marijuana concentrate for contaminants and potency.

**RETAIL MARIJUANA** means marijuana that is cultivated, manufactured, distributed, or sold by a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, or a retail marijuana testing facility.

**RETAIL SALES AND SERVICES** means uses involving the sale, lease, or rental of consumer, home, and business goods to consumers. Such uses include but are not limited to department stores, furniture stores, clothing stores, and establishments providing the following products or services: antiques,
appliances, art, art supplies, beauty supplies, bicycles, books, charitable donation collection, magazines and newspapers, craft supplies, copies, costumes, dry goods, electronics, fabric, framing, garden supplies, gifts, groceries, hardware, home improvement goods, household products, jewelry, music, musical instruments, office supplies, party supplies, pet supplies, pharmaceuticals, phones, photography equipment, produce, signs, sporting goods, stationary, thrift stores, toys, and videos; and new automotive parts and accessories. The phrase also includes services such as banking, picture framing, installation of electronics (e.g., audio systems and navigation systems) into motor vehicles, real estate offices that are open for walk-in traffic; repairs of products sold by the establishment (e.g., a computer store may also repair computers), repairs of consumer electronics, and comparable services. The phrase “Retail Sales and Services” does not include uses that are classified or defined more specifically in this LDC; Restaurants (all types); Sexually-Oriented Businesses; Retail Marijuana uses (whether medical or recreational); and Motor Vehicle Sales and Rentals. Retail sales and services uses are conducted indoors.

**Salvage Yard** means any establishment that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Salvage yards are also referred to by Colorado law as “automobile graveyards.” See C.R.S. § 43-1-502.

**School, Elementary or Middle** means a school that provides a general full-time educational curriculum for two or more grades between pre-kindergarten and grade eight, inclusive.

**School, High** means a school that provides a general full-time educational curriculum for grades nine through 12.

**School, Vocational or Technical** means an educational facility that primarily teaches skills that directly prepare students for jobs in a trade or profession. Examples include, but are not limited to, art schools, business colleges, language schools, trade schools, and secretarial colleges.

**Seasonal Use** means a use of land and temporary buildings or structures for a continuous period of six months or less during any 12-month period, at the conclusion of which the temporary buildings or structures are removed (e.g., a farm stand that is not located on a farm).

**Self-Service Laundry** means a business that provides coin or card-operated washers and dryers for use by customers.

**Self-Storage** means a facility that provides individual storage compartments for household or commercial goods within a building. Storage spaces may be accessed from interior hallways or individual outside doors. This use may include quarters for one or more persons employed by and residing at the self-storage facility for the purpose of on-site management and security.

**Sexually-Oriented Business** means a sexually-oriented theater/dancing establishment or a sexually-oriented retail establishment.

**Sexually-Oriented Theater/Dancing Establishment** means any of the following uses:

1. **Adult Arcade**, which means any commercial establishment or private club where, for any form of consideration, one or more still or motion picture projectors, slide projectors, video displays, or similar machines, or other image producing machines, for viewing by five or fewer persons per machine at any one time, are used to
regularly show films, motion pictures, digital images or video, video cassettes, slides, or other photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas.

(2) **ADULT CABARET**, which means a nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment or private club which regularly features or presents live adult entertainment.

(3) **NUDE MODEL STUDIO**, which means any place where a person who appears nude, semi-nude, or who otherwise displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. The phrase “nude model studio” does not include a proprietary school licensed by the State of Colorado or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or a business in a structure:

A. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

B. Where in order to participate in a class a student must enroll at least three days in advance of the class; and

C. Where no more than one nude or semi-nude model is on the premises at any one time.

(4) **ADULT MOTEL**, which means a hotel, motel or similar commercial establishment that:

A. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital images or video, slides, or other photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials which are characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproduction; or

B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
(5) **ADULT MOTION PICTURE THEATER** means a commercial establishment or private club, where for any form of consideration, films, digital images or video, motion pictures, video cassettes, slides or similar photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials are regularly shown characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas. An establishment meeting the definition of an adult arcade, above, is not an adult motion picture theater.

(6) **ADULT THEATER** means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear nude or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

(7) **SEXUAL ENCOUNTER CENTER**, which means a business or commercial establishment or private club that offers, for the purpose of sexual arousal, pleasure, gratification, or abuse, for any form of consideration, a place where two or more persons may congregate, associate, or consort and observe, view, participate, or engage in specified sexual activities or expose specified anatomical areas.

**SEXUALLY-ORIENTED RETAIL ESTABLISHMENT** means commercial establishment that:

(1) Devotes a significant or substantial portion of its business to the sale, rental or viewing, for any form of consideration, any one or more of the following ("ADULT ITEMS"):

   A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, digital video, video cassettes, slides or other photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials that are characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas;

   B. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specified sexual activities; or

(2) Is characterized by one or more of the following:

   A. A significant or substantial portion of its stock in trade consists of Adult Items; or

   B. A significant or substantial portion of its revenues is derived from the rental or sale of Adult Items; or

   C. A significant or substantial portion of its floor space, shelf space or storage space is devoted to Adult Items; or

   A. A significant or substantial portion of its advertising is devoted to Adult Items.
**SINGLE-FAMILY DETACHED** means a dwelling unit that is separated from other dwelling units (and other buildings) by outside walls.

**SNOWMOBILE** means a self-propelled vehicle that is primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats. The term “Snowmobile” does not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

**SOLID WASTE TRANSFER STATION** means an area of land or a facility, regardless of name or title, to unload solid waste from vehicles, and, with or without intermediate processing such as compaction, sorting, or shredding, subsequently re-load the waste onto other vehicles for delivery to another transfer site, storage site, recycling center, or disposal site. In addition to transferring solid waste, a waste transfer station may also include facilities for drop-off of recyclable materials (*e.g.*, waste paper, motor oil, scrap metal, polystyrene foam, porcelain, batteries, electronic components, textiles, plastics, discarded shoes, cardboard, and other discarded household materials), where the materials are sorted, temporarily stored, and then shipped in bulk to other locations for processing.

**SOLID WASTE DISPOSAL** means facilities for the disposal of non-nuclear waste or fill. The term includes solid waste disposal sites and facilities, as defined by C.R.S. § 30-20-101; and hazardous waste disposal sites, as defined by C.R.S. § 25-15-200.3.

**SPECIFIED ANATOMICAL AREAS** means less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below the point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** means the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or sex acts (normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy); or masturbation (actual or simulated); or excretory functions.

**STADIUM OR AMPHITHEATER** means:

1. An outdoor stadium or arena that includes tiered rows of seats or benches or a lawn for standing or seating, that is designed for the viewing of sporting events, rodeos, equestrian events, livestock exhibitions, concerts, or other organized entertainment; or

2. A drive-in theater, which is an area of land that includes one or more large outdoor screens or other structures for the display of motion pictures and an area for parking automobiles from which the motion pictures are viewed, and which may include a concession stand and outdoor seating areas.

**STEALTH TOWER** means a communications tower that is designed to appear as another type of structure or natural vegetation.

**STREET** means any street, avenue, boulevard, road, lane, parkway, viaduct, or other way for the movement of vehicular traffic which is an existing state, county or municipal roadway, or a street or way shown upon a plat, herefore or hereafter dedicated and which includes the land between street lines, whether improved or unimproved, and may be comprised of pavement, shoulders, gutters, sidewalks, parking areas and other areas within the right-of-way.
STRUCTURAL ALTERATION means a modification or combination of modifications to a building that increase or modify the building’s footprint or floor area, that affect the structural components of the building (e.g., by moving them), or that otherwise affect the form or character of the building or its structural quality or integrity.

SUBJECT PROPERTY means the real property that is the subject of an application for development approval.

TEMPORARY USE means the temporary use of land (with or without temporary buildings or structures) for a purpose which is related to construction, sales, storage, or special events (e.g., a large festival or carnival that is held outside of an amusement park or fairgrounds).

TRANSIT CENTER means an area utilized by public or commercial carriers for pick-up or drop-off of passengers. In addition to loading and unloading areas, transit centers may include shelters, restrooms, benches, information offices, landscaping, lighting, and other such facilities and appurtenances.

UTILITY FACILITIES, MINOR means electrical substations less than 35kV, water towers, and similar installations or equipment.

VARIANCE means an authorized modification of applicable zoning district provisions (e.g., lot width, yard depth, setback, or off-street parking and loading regulations) as applied to a subject property.

VETERINARIAN, LARGE ANIMAL means an animal hospital or clinic that provides medical care services for large animals, livestock, or wild animals, including but not limited to: horses, cows, bison, elk, deer, llamas, alpacas, sheep, goats, chickens, turkeys, ducks, and pigs.

VETERINARIAN, SMALL ANIMAL means a use in which medical care is provided for household pets, such as dogs, cats, birds, or exotic pets. The phrase does not include medical care for wild animals or livestock.

VISION CLEARANCE AREA (see Sec. 16-5-107, Vision Clearance Areas).

WHOLESALE means a business that is primarily engaged in selling or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. The term “wholesale” does not include wholesale membership clubs that offer memberships to the general public. Wholesale uses that also qualify as “heavy logistics” uses are considered heavy logistics uses.

WILDLAND-URBAN INTERFACE means the area of transition between unoccupied, forested land and human development. For the purposes of this LDC, it is the area of land within 500 from the edge of fire-prone public lands or managed forests, and such additional areas as may be officially mapped by an agency of the State of Colorado for the purposes of delineating the wildland-urban interface.

WIRELESS TELECOMMUNICATIONS FACILITIES means broadcasting equipment, antennae, or satellite dish arrays, whether free-standing, building-mounted, or tower mounted, that are used for the delivery of wireless services or for transmission or reception of radio or television signals. The phrase does not include residential satellite dishes, TV or HDTV antennae, or amateur radio antennae.
ZONE means an area of the City within which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

ZOO means a place where live animals are kept and exhibited to the public. The animals may also be studied, given medical treatment, and bred. The term “zoo” does not include agricultural uses or uses that sell live animals.
APPENDIX A: HISTORIC DISTRICT BOUNDARIES

Map of Historic District Boundaries is attached.
APPENDIX B: MINIMUM SUBDIVISION PLAT REQUIREMENTS

B-1. Generally
Applications for subdivision approvals shall be on a form approved by the Administrator, which shall meet the minimum standards of this Appendix.

B-2. Waiver of Information Requirements
An applicant may request a waiver of any of the requirements of this Appendix in writing to the Administrator. A request for waiver of requirements must include sufficient demonstration that the subdivision will have no negative qualitative or quantitative impacts that would be offset or mitigated by a specific requirement, the evaluation of which would be likely impacted by the requested waiver.

B-3. Required Contents
Preliminary and final plats shall include, at a minimum, the information set out in Table B-3, Minimum Plat Requirements.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Preliminary</th>
<th>Final</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application and Background Narrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard application form</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Letter of intent describing proposed subdivision, development schedule, and phasing</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Ownership, Title, and Tax Information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title commitment or comparable document issued by a title insurance company within six months of application date, showing ownership, liens, and encumbrances</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>ALTA/ASCM (NSPS) survey prepared within six months of application</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Treasurer’s certificate of paid taxes, showing that taxes are not delinquent</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Existing Conditions Information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soils, geotechnical report identifying hazardous waste or contaminated areas, existing soils and geotechnical conditions, necessary mitigation</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Existing topographic conditions (2-ft. contours for slopes less than 10%; 5-ft. contours for slopes 10% or greater)</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Boundary of existing 100-year floodplain, drainage channels, irrigation ditches, and significant natural features</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Drainage report showing 100-year floodplain limits; design for 10/100-year events, identification of federal or state permitting requirements; calculations of projected quantity of stormwater entering subdivision naturally from area outside of subdivision; location, size and grades of required culverts, inlets, or storm drainage sewers, details of on-site detention or retention of stormwater</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Improvements Information and Construction Plans</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grading plan</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Utility plan showing existing and proposed utility improvements and relocations and documentary evidence of provision for utilities</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>
### TABLE B-3
**MINIMUM PLAT REQUIREMENTS**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Preliminary</th>
<th>Final</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will-serve letters from utility providers</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Approved civil construction drawings</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Public improvements agreement</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Plat Documents</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plat exhibit (sheet size 24&quot; x 36&quot;) (mylars will be required for recording after approval)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Proposed name of subdivision</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>North point and date of preparation</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Scale, written and graphic, 1&quot; = 50’ or other scale approved by Administrator</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Vicinity map (scale 1:2,000)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Total acreage</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Zoning of property and adjacent properties; proposed zoning and location of uses and housing types within plat</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Boundary lines of subdivision in heavy solid line</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Owner’s and mortgagee’s certificate and dedication, signed</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Surveyor’s certificate</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Certificate of Planning Commission approval</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Certificate of Administrator approval</td>
<td></td>
<td></td>
</tr>
<tr>
<td>County Clerk and Recorder certificate</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Preliminary layout showing existing and proposed lots and property boundaries, streets and access points, utility lines, drainage structures with existing easements and proposed dedications, lot square footage</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Specific layout, fully surveyed, reflecting exact location of all lots, boundaries, streets, easements, public land dedications and any other proposed division</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>An accurate and complete boundary survey and survey of interior streets, lots, blocks shall be included</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lots and blocks shall be numbered sequentially and systematically</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimensions, bearing or angles, curve data: must show all survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All curves must be circular arcs and shall be defined by the radius, central angle, tangent, arc and chord distances and chord bearings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All dimensions, both linear and angular, shall be determined by an accurate control survey in field and balance and close within 1 in 10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building setback lines shown by long dashed lines</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Standard plat notes</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Agreements and Covenants, Conditions, and Restrictions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed agreements that are necessary for the development of the subdivision (e.g., crossing agreements, development agreements, or reimbursement agreements)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Copy of existing or proposed covenants, conditions and restrictions (CCRs)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Notice Information</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Names and mailing addresses for property owners within 300 feet</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Mineral estate notification statement</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Compliance with mineral estate notification</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
B-4. Certification Statements

(a) Generally. The following shall be placed on every plat map, unless otherwise not required by a more specific section of this Chapter:

(b) Legal Description.

LEGAL DESCRIPTION:
_______________________, being the owner(s) of the real property of
_____ acres described as follows:

[Insert surveyed property description of entire bounds of area being platted]

(c) Ownership and Dedication.

OWNERSHIP AND DEDICATION:
The undersigned certifies to and for the benefit of the City Council of Central City, Colorado, that as of the date set forth below, we
_______________________ and __________________, and __________________
being the owner(s) of the land described above, have good right and full power to convey, encumber and subdivide same, and that the property is free and clear of all liens, encumbrances, easements and rights-of-way except the easements and rights-of-way depicted on this plat. In the event of a defect in said title which breaches the warranties in this certificate, the undersigned, jointly and severally, agree(s) to remedy such defect upon demand by Central City, which remedy shall not be deemed exclusive.

KNOW ALL MEN BY THESE PRESENTS, THAT the undersigned, being the owners, mortgagees or lien holders of the land described above, have caused the land to be laid out and platted under the name of _______________________ and do hereby dedicate and grant to the public forever and in fee simple the roads and other public ways and lands shown hereon, and do hereby dedicate to Central City, and appropriate utility companies and emergency assistance entities, the easements as shown hereon for the purposes stated in compliance with the City of Central Subdivision Regulations and the landowners shall bear all expense involved in planning, design, and construction of all public improvements except to the extent expressly stated in any City-approved and recorded subdivision improvement agreement. Dedication shall be final upon adoption by the City
Council accepting the property dedicated by this plat. Except as otherwise stated on this plat, there shall be no limitation or restriction upon the purpose or public use of property dedicated by this plat.

In Witness Whereof; we do hereunto set our hands and seals this _____ day of ___________, ___.

____________________________________

[Printed Name of Owner]

(If by corporation, president signs, secretary attests and corporate seal is affixed)

STATE OF ________________ )

_________________________ ) ss.

COUNTY OF ________________ )

Acknowledged before me this __ day of ______, _____, by _______.

Witness my hand and official seal.

____________________________________

Notary Public

My commission expires: ________________.

(d) Surveyor's Certificate.

SURVEYOR'S CERTIFICATE:

I, ____________, do hereby certify that the survey of the boundary of ________________ (Subdivision) was made under my supervision and the accompanying plat accurately represents said survey.

[Insert statement by the land surveyor explaining how bearings were determined.]

[Insert statement by the land surveyor indicating the type of monuments used.]

[Insert statement by the land surveyor certifying compliance with applicable provisions of the Colorado Revised Statutes]

____________________________________

[Printed Name of Surveyor]
(e) **Mortgage Interest Holder(s) Consent to Dedication.**

MORTGAGE INTEREST HOLDER(S)
CONSENT TO DEDICATION.

MORTGAGEE CONSENT TO DEDICATION: The undersigned holders of mortgage interests and liens against the property offered for dedication and transfer to the public and City of Central consents and approves of such dedication and transfer and subordinates and releases its interests to such dedicated and transferred property.

In Witness Whereof, we do hereunto set our hands and seals this _____ day of__________, ___
______________________________
[Printed Name of Mortgage Interest Holder]

(If by corporation, president signs, secretary attests and corporate seal is affixed)

[Insert notarization conforming to applicable requirement of state law for mortgagee's place of execution]

(f) **Planning Commission Approval.**

PLANNING COMMISSION APPROVAL:

This preliminary plat was approved by the Planning Commission of the City of Central, Colorado, this _____ day of__________, ___.
______________________________
[Printed Name of Planning Commission Chair]
(g) **City Approval.**

**ADMINISTRATIVE APPROVAL:**

This plat is approved for filing by the Administrator as provided in the City of Central Land Development Code, and the City hereby accepts the dedication of the public ways shown hereon, including but not limited to, the streets, roads, drives and alleys for public use subject to the provisions contained in the Street Maintenance note herein, the dedication of public lands shown hereon, and the dedication of the easements shown hereon.

Signed this ____ day of __________.

____________________________________
[Printed Name of Administrator]

Attest:

____________________________________
[Printed Name of City Clerk]

---

**B-5. Standard Notes**

(a) **Street Maintenance.**

**STREET MAINTENANCE.** It is mutually agreed by the subdivider and the City that the dedicated public ways, including but not limited to streets, roads, drives and alleys, shown on this plat, will not be accepted finally for maintenance by the City until and unless the subdivider constructs the same in accordance with the public improvements agreement and development regulations in effect at the date of recording this plat and approval of the City has issued to that effect.

(b) **Drainage Maintenance.**

**DRAINAGE MAINTENANCE.** The owner, its legal representatives, heirs, executors, administrators, successors in interest and assigns shall be jointly and severally liable and responsible for maintaining the structural integrity and operational functions of all drainage facilities located on the property shown hereon unless otherwise specified herein, including but not limited to, private drainage facilities and public and private drainage easements.
APPENDIX C: MINIMUM PLANNED UNIT DEVELOPMENT REQUIREMENTS

C-1. Generally
Applications for planned unit development approvals shall be on a form approved by the Administrator, which shall meet the minimum standards of this Appendix.

C-2. Waiver of Information Requirements
An applicant may request a waiver of any of the requirements of this Appendix in writing to the Administrator. A request for waiver of requirements must include sufficient demonstration that the planned unit development will have no negative qualitative or quantitative impacts that would be offset or mitigated by a specific requirement, the evaluation of which would be likely impacted by the requested waiver.

C-3. Required Contents
Planned unit development applications shall include, at a minimum, the information set out in Table C-3, Minimum Planned Unit Development Requirements.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>PDP</th>
<th>FDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Letter of intent describing proposal, development schedule, phasing</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Title commitment issued within 6 months of application showing ownership, liens, encumbrances</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Adjacent property owners within 300 feet - names and mailing addresses</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>ALTA/ASCM (NSPS) survey prepared within 6 months of application</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Existing topographic conditions - 2-foot contours for slopes less than 10%; 5-foot contours for slopes 10% or greater</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Grading plan</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Drainage report showing 100-year floodplain limits, design for 10/100-year events, identification of federal or state permitting requirements; calculations of projected quantity of stormwater entering subdivision naturally from area outside of subdivision; location, size and grades of required culverts, inlets or storm drainage sewers, details of on-site retention of stormwater</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Soils, geotechnical report identifying hazardous waste or contaminated areas, existing soils and geotechnical conditions</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Traffic impact report</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Utility plan showing proposed utility improvements and relocations and documentary evidence of provision for utilities</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Plan exhibit - sheet size 24” x 36” (mylars are required for approved plans that will be recorded)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Proposed name of plan</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>North point and date of preparation</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Legal description</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Scale, written and graphic, 1” = 50’</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Vicinity map (scale 1:2,000)</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
### TABLE C-3
**Minimum Planned Unit Development Requirements**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>PDP</th>
<th>FDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total acreage</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Zoning of property and adjacent properties; proposed zoning and uses</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Boundary lines of PUD in heavy solid line</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Civil construction drawings</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Total acreage</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Zoning of property and adjacent properties</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Boundary lines of PUD in heavy solid line</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Civil construction drawings</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Boundary of existing 100-year floodplain; drainage channels and significant natural features</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Preliminary site plan showing existing and proposed uses and densities (residential = units/acre; nonresidential = FAR), lots and property boundaries, streets and existing and proposed access points, existing easements and proposed dedications, maximum building height, lot square footage</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Specific site plan, fully surveyed, reflecting permitted land uses and respective acreage, setbacks and building envelopes fully dimensioned, location of existing/proposed streets, easements, utilities, public dedications</strong></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Architecture renderings showing schematic design, elevations of all sides of a proposed building, structural dimensions including height from lowest to highest point, color renderings depicting anticipated color scheme of all building facades</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Proposed landscaping</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Shadow study</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Proposed signage, if different from sign code provisions</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Proposed lighting</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Owner’s certificate</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Certificate of Planning Commission approval</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Certificate of City Council approval</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>County Clerk and Recorder certificate</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Treasurer’s certificate of paid taxes, showing that taxes are not delinquent</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Mineral estate notification statement</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Standard plan notes</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Subdivision improvement agreement</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Copy of existing or proposed covenants, conditions and restrictions (CCRs)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>For building height bonus PUDs, a statement of the maximum building height requested, along with written justification based on public benefits of the development, including but not limited to: estimated minimum number of gaming devices proposed; accommodation of parking within structured parking facility; estimated square footage devoted to gaming, retail sales, hotel and lodging; estimated revenues generated by development from sales and use tax, gaming devices and other anticipated revenues; description of on- and off-site public improvements constructed as part of the development (e.g., drainage enhancements); grant of public easements for uses such as sidewalks, public parking; and other amenities provided by the development.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Written statement of conformance with Comprehensive Plan, as may be amended.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Other information deemed necessary by the City to evaluate the request.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
APPENDIX D: GUIDELINES FOR WILDFIRE MITIGATION PLANS

D-1. Introduction
(a) The wildland-urban interface ("WUI"), is a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. The WUI creates a potentially dangerous situation for flames or embers from a wildfire to come in contact with buildings or structures.

(b) The purpose of these Guidelines is to provide a means to protect the public health, safety, and welfare by establishing recommendations for development within a Wildland-Urban Interface area in order to:
   (1) Reduce threats to life safety, property, and resources by improving development and construction standards, access to and defensibility of developments, homes, and other property in WUI areas;
   (2) Minimize the potential of spreading fire from wildland areas to buildings or structures and from building or structure fires to wildland areas;
   (3) Identify the appropriate use of cul-de-sacs, hammer head turnarounds, and turnouts on streets and roads providing legal and physical access to subdivisions with the intent to provide better emergency access to fire-prone areas; and
   (4) Encourage homeowners and neighborhoods to plan, create and maintain defensible space that utilizes fire resistant construction and landscaping.

D-2. Defensible Space
(a) Defensible Space is an area, either natural or manmade, where materials that tend to facilitate the spread of fire have been treated, cleared or modified to slow the rate and intensity of wildfire, and to create a staging or operations area for fire suppression activities. Consistent application and maintenance of defensible space treatments will create conditions where a crown fire may be transformed into a ground fire, slowing its rate of spread and creating an opportunity for fire suppression resources to safely respond.

(b) There are three Defensible Space Zones.
   (1) Zone 1: An area measured 30 feet around a building. The goal in this zone is to reduce the potential home ignition sources.
      A. Firewood and other debris around or under the structure should be relocated.
      B. Keep roof and rain-gutters clear of needles and leaves during the fire season.
      C. Maintain non-combustible ground material 2 to 3 feet around structure (Planting beds, rock gardens, pavers, gravel or bare soil).
      D. Remove all pine needles & flammable ground materials.
E. Prune tree limbs and branches within 10 feet of the roof.
F. Remove tree limbs and branches within 10 feet of chimney.
G. Use fire resistant construction, plants and landscaping concepts.
H. Consider low combustible ground covers and non-flammable landscape material.
I. Do not let flammable vegetation touch or overhang the home.
J. Ensure vegetation is not a species that retains dead material or deposits excessive quantities of ground fuel.
K. Ensure vegetation is located far enough away from the home so that they will not ignite the home by direct flame contact or radiant heat emission.

(2) Zone 2: The size of this zone depends on the slope and property boundaries but is typically 75 to 125 feet from the structure.
   A. The fuel load should be reduced by removing dead trees and shrubs, thinning and pruning trees and keeping grasses to 6 inches or less.
   B. Remove all ladder fuels.
   C. Maintain 20 feet between crowns of native trees or "clumps."
   D. Maintain 20 feet between planting islands.
   E. Prune native tree limbs 15 feet from ground.
   F. Provide added protection with "fuel breaks," such as driveways, gravel walkways, and lawns.
   G. Provide access through fences for fire apparatus.
   H. Consider coordination with neighboring properties.
   I. Store firewood and other combustibles in this Zone.

(3) Zone 3 extends from the edge of Zone 2 to the property line and is an area of traditional forest management, enhancing the overall health of the forest.
   A. Remove heavy accumulations of woody debris, such as piles of stem wood or branches.
   B. Remove all ladder fuels.
   C. Maintain 15 feet between crowns of native trees or "clumps."
   D. Prune native tree limbs a minimum of eight to 15 feet from ground or 1/3 of crown, whichever is less.
   E. Coordinate with neighboring properties.
   F. Treat the entire perimeter of the subject property.
D-3. Site Development

(a) *Fire Chimneys.* Buildings and building sites are discouraged within ravines or other topographical features which constitute “fire chimneys,” and within 150 feet of the apex of “fire chimneys.” Any proposed lot within a new subdivision with a “fire chimney” located on the lot should have a no-build area designated on the face of the final plat for the subdivision that prohibits future development within “fire chimneys” and within 150 feet of the apex of “fire chimneys.”

(b) *Improvements Prior to Construction.* Water sources, wells, draft sites, hydrants, fire breaks, access routes, and other fire protection equipment or features required by the preliminary plat approval should be installed prior to construction of any residential or commercial/industrial structures in a new subdivision.

(c) *Fuelbreaks and Greenbelts.* WUI fire protection may rely on fuelbreaks and greenbelts to separate communities, groups of structures, or individual homes. These breaks can slow or stop the spread of an oncoming fire.

   (1) Locate fuelbreaks and greenbelts to protect both existing and planned developments and adjacent wildlands. Fuelbreaks should not be a bare soil trail bulldozed around a subdivision, but can be as simple as the removal of dead and fallen trees, tree limbs, shrubs, and other flammable vegetation together with breaking the continuity of vegetation around the perimeter of the development.

   (2) Natural features such as rocky formations with little or no vegetation or rivers or streambeds in which vegetation has been thinned and dead and dying materials removed can also be utilized.

D-4. Means of Access

The majority of non-firefighter deaths during wildland fires occurs during evacuation or attempts to escape from a fire front. Access to developed areas requires that public and private roads, bridges, and driveways be properly designed, constructed, and maintained to provide for safe ingress and egress for fire personnel and equipment and the public.

D-5. Construction of Residential, Commercial, or Accessory Structures

The construction of new residential, commercial, or accessory structures and the substantial improvement, relocation, and replacement of existing structures should consider fire resistant construction techniques.

D-6. Wildfire Mitigation Plan Contents

(a) A *Wildfire Mitigation Plan (“WMP”) shall consist of narrative and maps necessary to identify the potential for wildfires and the potential hazard to any development, use, or occupants, and to describe mitigation measures for the protection of occupants, structures, or improvements. The WMP shall be prepared with the consultation of the state forest service personnel, its resources, and include appropriate forest service recommendations.

(b) Wildfire mitigation plans shall set out:
(1) An evaluation of risk that includes:
   A. A profile of the land and proposed development that is subject to the wildfire mitigation plan;
   B. A wildfire risk assessment;
   C. A description of the nature and extent of the WUI;
   D. A description of the protection capabilities and infrastructure for evacuation, fire suppression, and fire prevention; and
   E. A fire risk rating for proposed structures and existing structures that will be retained on the subject property.

(2) A wildfire mitigation action plan that consists of, at a minimum:
   A. Current fire mitigation projects that affect the subject property;
   B. Fuel reduction strategies;
   C. Initial and ongoing fuel reduction project plans, including the entities that are responsible for the projects and their funding sources;
   D. Monitoring and evaluation plans;
   E. Emergency preparedness plans; and
   F. Emergency operations plans.
APPENDIX A

HISTORIC DISTRICT BOUNDARIES