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**Sec. 16-1-10. Title.**

This Chapter shall be officially known and referred to as the City of Brush Land Use Code or this Chapter. The provisions of this Chapter shall apply to all development of buildings, structures and uses of land throughout the City, whether such development is undertaken by a public, quasi-public or private entity.

(Ord. 789-08 §1)

**Sec. 16-1-20. Authority.**

The City is required and enabled to control land use within the City by virtue of, among other authorities, Colorado Revised Statutes, as amended, Sections 24-67-101, et seq., 24-68-101, et seq., 29-20-101, et seq. and 31-23-101, et seq.

(Ord. 789-08 §1)

**Sec. 16-1-30. Jurisdiction.**

This Chapter shall apply to the entire area of the City within the municipal boundaries, as altered from time to time.

(Ord. 789-08 §1)

**Sec. 16-1-40. Purpose.**

The purpose of this Chapter is to protect the health, safety and general welfare of present and future inhabitants of the City, including:

- (1) To encourage and accommodate efficient and fiscally responsible growth consistent with the adopted Three Mile Plan and Future Land Use Map, as the same are amended from time to time.

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- (2) To ensure that areas proposed for annexation are compatible with existing residential, commercial and industrial neighborhoods.
- (3) To preserve and enhance the City's small-town, rural character.
- (4) To promote a compatible and functional system of land uses which are consistent with the adopted Comprehensive Plan, as the same is amended from time to time.
- (5) To maintain and enhance a quality residential environment in the City.
- (6) To promote the construction of new housing to accommodate growth and better meet the demand for housing in the City.
- (7) To achieve a mix of housing types and densities in order to meet the diverse needs of the citizens.
- (8) To provide and maintain a roadway network which meets the access and circulation needs for the community in a safe, economical and efficient manner.
- (9) To develop a downtown parking and circulation plan to support and enhance the viability of the downtown.
- (10) To support alternative modes of transportation.
- (11) To continue to develop a diversified and stable economic base that provides City residents with a variety of job opportunities.
- (12) To achieve an adequate mix of commercial development that meets the needs of City residents and does not excessively impact the City's transportation system.
- (13) To provide public improvements that are designed and installed to deliver required service in a timely manner.
- (14) To provide adequate parks and recreation facilities to serve the recreation needs of residents.
- (15) To develop a comprehensive trail network linking parks, recreational facilities and other community facilities.
- (16) To protect important environmental quality and resources of the City and surrounding areas, including well fields and overall water quality.
- (17) To encourage environmentally sound methods of using and disposing solid and hazardous waste.
- (18) To allow for the development of oil, gas and other natural resources extraction activities with proper mitigation to avoid impacts to surface and ground water quality, impacts on both local and county roads and to minimize impacts on adjacent uses.
- (19) To regulate such other matters as the Planning Commission and City Council may deem necessary in order to protect the best interest of the public and of private property ownership.

(Ord. 789-08 §1)

**Sec. 16-1-50. Interpretation.**

In the interpretation and application of this Chapter, the following criteria shall govern:

- (1) Whenever both a provision of this Chapter and any provision in any other law, ordinance, resolution, rule or regulation of any kind contain any restrictions covering any of the same subject matter, whichever regulations are more restrictive or impose higher standards or requirements shall govern.

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- (2) The word shall is mandatory. The word may is permissive. Words used in the present tense include the future, and words used in the plural number include the singular, unless the context clearly indicates the contrary. The masculine shall include the feminine and the feminine shall include the masculine.
- (3) This Chapter shall not abrogate, abolish, repeal or annul any plat, easement, covenant or agreement placed of record prior to the effective date of this Chapter.

(Ord. 789-08 §1)

**Sec. 16-1-60. Repeal and effective date.**

- (a) Repeal. All land use regulations of the City effective prior to the date of adoption of this Chapter are hereby repealed. The repeal of any regulation does not revive any other ordinance or regulation or portion thereof repealed by said regulation. Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any ordinance or regulation repealed hereby for an offense committed prior to the repeal, effective as of December 1, 2008.
- (b) Effective date. This Chapter became effective on December 1, 2008. Existing legal uses that may become nonconforming by adoption of this Chapter shall become legal nonconforming uses subject to the provisions of Article 2.

(Ord. 789-08 §1)

**Sec. 16-1-70. Severability.**

It is hereby declared to be the legislative intent of the City Council that:

- (1) If any provision of this Chapter is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid. Such decision shall not affect, impair or nullify the remainder of this Chapter as a whole or any part thereof, but the rest of this Chapter shall continue in full force and effect.
- (2) If the application of any provision of this Chapter to any parcel of land is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that parcel of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered, and such decision shall not affect, impair or nullify this Chapter as a whole or in the application of any provision thereof to any other parcel of land.

(Ord. 789-08 §1)

**ARTICLE 2 Administration**

[Sec. 16-2-10. Director of Community Development.](#)

[Sec. 16-2-20. Vested property rights.](#)

[Sec. 16-2-30. Nonconforming lots, uses and structures.](#)

[Sec. 16-2-40. Enforcement, fees and remedies.](#)

[Sec. 16-2-50. Annexations.](#)

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**Sec. 16-2-10. Director of Community Development.**

The position of Director of Community Development, hereafter referred to as the "Director," is hereby created. It shall be the duty of the Director, or his or her designee, to administer the provisions of this Chapter as directed by the City Administrator.

(Ord. 789-08 §1)

**Sec. 16-2-20. Vested property rights.**

(a) Application and scope.

(1) This Section provides the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S. Nothing in this Section is intended to create any vested property right. In the event of the repeal of said Article 68 or a judicial determination that such Article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective.

(2) Approval of a site specific development plan pursuant to this Section shall not constitute an exemption from or waiver of any other provision of this Code or any other law, rule or regulation of the City concerning the development and use of property.

(b) Establishment of vested property rights. For all site specific development plans, a vested property right shall be deemed established upon the approval of the plan by the City Council in accordance with the provisions of this Section and the applicable requirements of Article 3 of this Chapter.

(c) Notice and hearing. All site specific development plans shall be processed in accordance with the applicable requirements of Article 3 of this Chapter.

(d) Approval; effective date; amendments. A site specific development plan shall be deemed approved upon the effective date of the City Council's approval action. In the event amendments to an approved site specific development plan are proposed and approved, the effective dates of such amendments, for purposes of duration of a vested property right, shall be the date approval of the original site specific development plan, unless the City Council specifically finds to the contrary and incorporates such finding in its approval of the amendment.

(e) Notice of approval. Each map, plat, site plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." The failure of any such document to contain this statement shall not invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved and the specific parcel of property affected, and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the City.

(f) Payment of costs. All site specific development plans are subject to the applicable fees and costs set forth in the Fee Schedule, Appendix 16-C to this Code.

(Ord. 789-08 §1)

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**Sec. 16-2-30. Nonconforming lots, uses and structures.**

- (a) Existing nonconformance. Certain lots, uses of land and structures may be found to be in existence on the effective date of this Chapter which do not meet the requirements of this Chapter but which were either conforming or legally nonconforming uses or buildings under prior ordinances. It is the intent of this Section to allow the continuance of such nonconformities as legal nonconforming lots, uses or structures upon the terms and conditions set forth hereafter.
- (b) Lots. Nonconforming lots on record as of December 1, 2008 may be built upon if all other relevant district requirements are met and the approval of the Board of Adjustment is obtained.
- (c) Uses.
  - (1) A nonconforming use may be extended throughout any part of a building which was legally constructed or designed for such activity prior to the enactment of this Chapter.
  - (2) Any structural alteration that would reduce the degree of nonconformance or change the use to a conforming use is allowed.
  - (3) Where a conforming building or facility devoted to a nonconforming use is damaged to the extent of fifty percent (50%) or less of the cost of repairing the entire structure or facility, it may be repaired; provided, however, that any such repair is commenced within twelve (12) months and is completed within eighteen (18) months from the date of partial destruction. Failure to commence or complete repair within the time frames required by this Paragraph shall constitute a forfeiture of the right to use or occupy the structure as a nonconforming use.
  - (4) The provisions of this Subsection shall not apply to nonconforming residential uses in C Commercial, CC Commercial Core and I Industrial land use districts. Such uses may be repaired irrespective of the extent of damage if such repair is commenced within twelve (12) months and is completed within eighteen (18) months from the date of damage.
  - (5) Whenever a nonconforming use has been discontinued for a period of twelve (12) consecutive months or more, it shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Chapter.
  - (6) No nonconforming use of a building or lot may be changed to another nonconforming use. A nonconforming use of a building or lot may be changed to a conforming use.
  - (7) Nothing herein shall require any change in plans, construction or designated use of a building or structure for which approval of the City Council has been obtained prior to December 1, 2008 (the effective date of this Chapter), and construction of which shall have commenced within three (3) months following the date of such approval and completed within twelve (12) months of the date of such approval. Failure to commence or complete construction within the time frames required by this Paragraph shall constitute a forfeiture of the right to construct such building or structure or designate its use as legally nonconforming.
- (d) Structures.
  - (1) A nonconforming building to be extended or enlarged shall conform with the provisions of this Chapter.
  - (2) Subject to the repair provisions of Paragraphs (3) and (4) below, maintenance repairs that are needed to maintain the good condition of a building shall be allowed; provided, however, that, if a building has been officially condemned, it may not be restored.
  - (3) If a nonconforming building is damaged such that the cost of repair exceeds seventy-five percent (75%) of the cost of replacing the entire structure, it shall be restored only in compliance with the requirements of this Chapter. Where the cost of repair is seventy-five percent (75%) or less of the cost of replacing the entire structure, it may be repaired to its former nonconforming state; provided, however, that any such repair is commenced within twelve (12) months and is

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completed within eighteen (18) months from the date of damage. Failure to commence or complete such repair or restoration within the time frames required by this Paragraph shall constitute a forfeiture of the structure's legally nonconforming status.

- (4) Nothing herein shall require any change in plans or construction of a building or structure for which approval of the City Council has been obtained prior to December 1, 2008 (the effective date of this Chapter), and construction of which shall have commenced within three (3) months following the date of such approval and completed within twelve (12) months of the date of such approval. Failure to commence or complete construction within the time frames required by this Paragraph shall constitute a forfeiture of the right to construct such building or structure as legally nonconforming.

(Ord. 789-08 §1)

**Sec. 16-2-40. Enforcement, fees and remedies.**

(a) Complaints and enforcement.

- (1) Complaints. Any person aggrieved by a violation or apparent violation of the provisions of this Chapter may file a written complaint with the Director, who shall investigate such complaint and, if necessary, take action on such complaint within ten (10) days to penalize the violation or remedy the same. The City may also initiate such investigations on its own behalf at the discretion of the Director.
- (2) Enforcement. It shall be the duty of the Director to oversee enforcement of the provisions of this Chapter as directed by the City Administrator. In addition to other penalties and remedies provided by this Chapter or by law, any enforcement of the provisions of this Chapter may be by the issuance of a summons and complaint to Municipal Court by a peace officer. The Director shall be considered a peace officer pursuant to C.M.C.R. 204 for the purpose of serving a summons and complaint.

(b) Applicability.

- (1) No building or structure may be erected, constructed, reconstructed, altered, repaired, moved or used unless in conformance with this Chapter.
- (2) No person, partnership or corporation may subdivide or cause to be platted any such land into lots prior to submittal and approval of plans and plats to the City as provided by this Chapter.
- (3) Unless this Chapter specifically exempts a City-initiated project from being governed by the provisions of this Chapter, or to the extent the Board of Adjustment finds irrespective of the requirements of Subparagraph (h)(3)c that such City-initiated project is for the convenience or welfare of the public, the City shall adhere to the provisions of this Chapter for all City-initiated projects.

(c) Permits and approval required.

(1) Permits.

- a. No building or structure shall be erected, moved or structurally altered unless a building permit therefor has been issued by the Director. All permits shall be issued in conformance with this Chapter and all other applicable Code provisions, except in those instances where a variance has been granted by the Board of Adjustment. All applications for a permit shall be accompanied by a drawing showing the location of all improvements in relation to the lot and indicating the height of all structures.
- b. No utility of any type shall be constructed in any location in the City, nor shall any utility be installed, be "hooked up" or provide service to any structure until a permit has been issued

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by the Director or Building Inspector. No permit shall be issued unless the proposal is in full accordance with this Chapter, except in those instances where a variance has been granted by the Board of Adjustment. All applications for utility construction permits shall be accompanied by a map or drawing, as may be applicable, showing the location of the proposed utility or utility installation.

- (2) Subdivision approval. Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers, sells, agrees to sell or negotiates to sell any land by reference to or exhibition of or by use of a plan or plat of a subdivision before such plan has been reviewed by the Planning Commission and adopted by the City Council and recorded or filed with the County Clerk and Recorder shall forfeit any fee paid and pay a penalty as set forth in Section 1-4-20 of this Code for each lot or parcel so transferred or sold or agreed or negotiated to be sold. Each day of violation shall constitute a separate offense. The description of such lot or parcel by metes or bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from remedies provided in this Section. The City may enjoin such transfer or sale or agreement by action for injunction and may recover the penalty by civil action in any court of competent jurisdiction.
- (d) Certificate of occupancy. No building erected, moved or structurally altered may be used or changed in use until a certificate of occupancy has been issued by the Director stating that the entire building and proposed use thereof comply with the provisions of this Chapter.
- (e) Fees. All fees required by this Chapter are set forth in Appendix 16-C to this Code, as the same may be amended by resolution of the City Council.
- (f) Penalties and remedies.
  - (1) Failure to comply with all of the provisions of this Chapter, unless a variance has been authorized by the Board of Adjustment, shall constitute a misdemeanor and upon conviction is punishable in accordance with the provision of Section 1-4-20 of this Code. Each day that a violation exists or continues shall constitute a separate offense.
  - (2) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is proposed to be used or is conveyed in violation of any provision of this Chapter, the Director, in addition to other remedies provided by law, may institute any appropriate action to prevent, enjoin, abate or remove the violation to prevent the occupancy of the building, structure or land or to prevent any illegal act or use in or on such premises.
  - (3) The City may withdraw approval of a plan or plat if and when it is determined that information provided by the applicant, upon which such approval was based, is false or inaccurate.
- (g) Notification. Whenever the Director finds a violation of any of the provisions of this Chapter, the Director shall notify the person responsible for the violation in writing and shall order the necessary corrections to be made within a period of two (2) months. Any violation which is not corrected within the two-month period allotted may be corrected as set forth in this Section.
- (h) Board of Adjustment; appeals.
  - (1) Establishment. A Board of Adjustment is hereby established for the purpose of hearing and deciding appeals from and reviewing any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Chapter. The Board of Adjustment shall also hear and decide all matters referred to it or upon which it is required to issue an opinion under this Chapter.
  - (2) Duties. The duties of the Board of Adjustment are as follows:
    - a. To meet at the call of the Chair, or by the request of the Director or any party wishing to appeal the decision of the Director.



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- b. To adopt any rules necessary to transact the business of the Board of Adjustment or to expedite its functions or powers so long as they are not inconsistent with the provisions of this Chapter.
  - c. In the case of properties subject to a public hearing, to publish or cause to be published notice of said hearing or to cause the property to be posted as set forth in Section 16-3-30 of this Chapter.
- (3) Powers. The Board of Adjustment shall have the following powers:
- a. Appeals from decisions of administrative officials. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Chapter.
  - b. Interpretation. To hear and decide requests for interpretation of this Chapter, including any uncertainty as to boundary location or meaning of wording so long as this interpretation is not contrary to the purpose and intent of this Chapter.
  - c. Variances. Exceptions or variances may be granted when the Board of Adjustment finds that all of the following conditions exist:
    - 1. That peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Chapter are strictly enforced.
    - 2. That the circumstances creating the hardship were created through no fault of the appellant.
    - 3. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or any other extraordinary and exceptional situation or condition which does not occur generally in other properties in the same district.
    - 4. That the variance will not substantially or permanently injure the appropriate use of adjacent conforming properties in the same district.
    - 5. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, or curtail desirable light, air and open space in the neighborhood, or change the character of the neighborhood.
    - 6. That the variance will not alter the essential character of the district in which the property for which the exception is sought is located.
    - 7. That the variance will not weaken the general purposes of this Chapter or the regulations established herein for the specific district.
    - 8. That the variance will be in harmony with the spirit and purposes of this Chapter.
    - 9. That the variance will not adversely affect the public health, safety or welfare.
  - d. Under no circumstance shall a variance be granted on the sole basis of personal convenience, profit or special privilege to the applicant.
- (4) Procedure. The Board of Adjustment shall act in strict accordance with all of the applicable laws of the State and this Chapter.
- a. Appeals to the Board of Adjustment must be made within thirty (30) days after the occurrence of the grievance or decision that is the subject of the appeal.
  - b. An appeal stays all proceedings in furtherance of the action appealed. However, if it is the opinion of the officer whose decision is appealed that a stay would cause imminent peril to life or property, proceedings shall not be stayed unless by a restraining order which may be

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granted by the Board of Adjustment or by a court of record of competent jurisdiction, on notice to the officer from whom the appeal is taken and on due cause shown.

- c. All appeals shall be in writing and in such form as shall be prescribed by the Board of Adjustment and shall include the following information:
    - 1. What provision of this Chapter is involved;
    - 2. What relief from this Chapter is being sought;
    - 3. The grounds upon which such appeal is being sought; and
    - 4. A site plan illustrating the manner in which the appeal or variance, if granted, would affect the subject property and adjacent uses.
  - d. The Board of Adjustment shall conduct a public hearing upon all appeals, notice of which shall be given as set forth in Section 16-3-30 of this Chapter.
  - e. All applicable fees shall be as set forth in the Fee Schedule, attached as Appendix 16-C to this Code. Any fees must be received prior to the setting of a hearing date on the petition.
  - f. At the hearing, any party may appear in person, by agent or by attorney.
  - g. The applicant shall have the burden of demonstrating that the applicable standards of Subparagraph (3)c above have been met.
- (5) Decisions.
- a. Variances shall be granted only with respect to specific plans. Unless otherwise specified by the Board of Adjustment, a variance may be transferred to successive owners prior to construction if no changes are made to the approved plan and shall run with the land after the construction of any authorized structure or structures and only for the life of such structures.
  - b. The Board of Adjustment may condition the granting of a variance on the issuance of a building permit within a specific time period and may require the applicant to pursue completion of the construction with due diligence. If such conditions are not satisfied, the variance shall become null and void.
  - c. In order to ensure that the protection of the public good and the intent and purpose of this Chapter is preserved, the Board of Adjustment may impose any other condition upon the grant of a variance.
- (6) Appeals from Board of Adjustment. Any appeal from a decision of the Board of Adjustment may be made to a court of competent jurisdiction within thirty (30) days, as provided by law.

(Ord. 789-08 §1)

**Sec. 16-2-50. Annexations.**

- (a) Annexation generally. In addition to all other applicable requirements of this Code, including but not limited to the water rights conveyance requirements of Sections 13-2-20 and 13-2-40 of this Code regarding withdrawal of nontributary groundwater, all annexations to the City are governed by and must meet the requirements of the Municipal Annexation Act of 1965, Part 1, Article 12, Title 31, C.R.S.
- (b) Annexation maps and petitions.
  - (1) Maps. In addition to all other applicable requirements of law, all maps associated with annexation of land to the City shall contain a reference to Section 13-2-40 of this Code.

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- (2) Petitions. In addition to all other applicable requirements of law, all petitions for annexation shall include the following statement: "Petitioner consents to the dedication of non-tributary groundwater under the property proposed to be annexed pursuant to Section 13-2-40 of the Brush Municipal Code and Section 37-90-101 et seq., C.R.S."

(Ord. 789-08 §1)

**ARTICLE 3 Procedures**

[Sec. 16-3-10. Introduction.](#)

[Sec. 16-3-20. Review Process Chart.](#)

[Sec. 16-3-30. Public hearing notice requirements.](#)

**Sec. 16-3-10. Introduction.**

- (a) All land use changes must be reviewed and approved in accordance with the review process and standards set forth in this Article. Table 3-1, the Review Process Chart, in Section 16-3-20 below, establishes the required review steps applicable to different forms of approval which may be requested by the applicant. Applicants should refer to the chart to determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of the chart applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of this Chapter under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.
- (b) In the event the Planning Commission or other board, commission or staff with authority recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event the review stage is before the City Council, the application may not be further processed following a denial. If, in the opinion of the Director, a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until determined complete in accordance with submittal requirements.
- (c) The Planning Commission, City Council, Board of Adjustment or Director may require, prior to or as part of any preliminary or final site development review, that the applicant permit a site visit. In the event a site visit is required, the applicant shall provide access to the property sufficient to accommodate the needs of the site visit and shall, upon request by the Director, stake, flag or otherwise identify on or above the ground those features of the property or the proposed development (for example, wetland boundaries, proposed building envelopes and heights, road alignments) requested.
- (d) At any stage of review of any land use change, the Planning Commission, City Council, Board of Adjustment or Director may require at the applicant's expense the submission of any plan, study, survey or other information, in addition to that specified in this Chapter, as such body or individual may determine necessary to enable it to review and act upon the application or in order to determine whether the application complies with the requirements of this Chapter.

(Ord. 789-08 §1)

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**Sec. 16-3-20. Review Process Chart.**

TABLE 3-1  
Review Process Chart [11](#)

	Preapplication	Sketch			Preliminary			Final				
Approval Requested	Staff	Staff	PC	CC	Staff	PC	CC	Staff	PC	CC	BOA	Notes
Floodplain development permit								R				Article 13
Sign permit								R				Article 12
Special use permit <sub>2</sub>	C							R		H		Sec. 16-6-20(b)
PUD	Applicants for PUD shall follow the procedure set forth herein for rezoning and the applicable underlying subdivision process											Sec. 16-8-30
PUD - minor amendment	C								M			Sec. 16-8-30(c)(1)
PUD - amendments generally	Applicants for PUD amendments shall follow the original procedure for PUD approval											Sec. 16-8-30(c)(1)
Rezoning	C								M	H		Sec. 16-4-30
Major subdivision	C	R	M		R	H	H	R	H	H		Sec. 16-9-10
Minor subdivision	C	R	M					R	H	H		Sec. 16-9-20
Mobile home park	C							R				Sec. 16-7-

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permit <sup>3</sup>											60(c)(1)
Plat amendment/ correction	C						R				Sec. 16- 9-30
Site plan	C						R	H <sup>1</sup>			Sec. 16- 5-10
Variances	C						R		H		Sec. 16- 2-40
Vested rights/site specific development plan	C						R	H			Sec. 16- 2-20

Key:	BOA	Board of Adjustment
	CC	City Council
	C	Conference
	H	Hearing
	M	Public Meeting
	PC	Planning Commission
	PUD	Planned Unit Development
	R	Review

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Site plans that include a proposed special use shall be reviewed by the City Council concurrently with the associated special use permit application.

See Subsection 16-6-20(d) of this Chapter for specific notice requirements controlling the revocation of a special use permit.

Must be accompanied by a site specific development plan.

(Ord. 789-08 §1)

**Sec. 16-3-30. Public hearing notice requirements.**

- (a) The requirements of this Section apply only to public hearings required by this Chapter and as shown on the Review Process Chart. Where that chart indicates that a public meeting (in contrast to a public hearing) is required, this Section does not apply, and notice of such meeting is subject only to the requirements of the Colorado Open Meetings law, Section 24-6-401, et seq., C.R.S. The requirements for public notice are shown below in Table 3-2.
- (b) Published notice. At least fifteen (15) days prior to any public hearing for a land use change which requires published notice, the Director shall cause to be published in the legal section of a newspaper of general circulation within the City a notice of such public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by both address and legal description.
- (c) Posted notice. At least fifteen (15) days prior to any public hearing which requires posted notice, the Director shall cause to be prepared, and the applicant shall post, signs upon the parcel under consideration which provide notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by at least two (2) of the three (3) following methods: (1) street address; (2) general description, such as proximity to intersecting streets; or (3) a legal description. The signs shall be of a size and form prescribed by the City and shall consist of at least one (1) sign facing and reasonably visible and legible from each adjacent public right-of-way. The fact that a parcel was not continuously posted the full period shall not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.
- (d) Mailed notice. At least fifteen (15) days prior to any public hearing which requires notification by letter, the Director shall cause to be sent, by U.S. mail, first-class, a letter to:
  - (1) Owners of property abutting the subject property within three hundred (300) feet, or which is separated from the subject property only by a public right-of-way or water course; and
  - (2) Owners of property included within the application. The letter shall include a vicinity map, a short narrative describing the application and an announcement of the date, time and location of the scheduled hearing. The letter shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.
  - (3) Public notice time requirements. Unless otherwise provided in this Chapter, public notice time requirements include the day the notice is posted, appears in the newspaper or is mailed, and shall also include the day of the public hearing.
  - (4) Public Notice Requirements Chart. Table 3-2 identifies when public notice is required, either by publishing, posting or mailing:

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TABLE 3-2  
Public Notice Requirements

Approval Requested	Notice Required		
	Publish	Post	Mail
Special use permit *	X	X	X
Planned unit development	X	X	X
Rezoning	X	X	X
Subdivision preliminary plat	X	X	X
Subdivision final plat	X	X	
Vested rights/site specific development plan	X		
Variance **	X	X	X

Failure to properly notice a special use permit shall mandate denial of the application until such time as notification is perfected; see Subsection 16-6-20(e) of this Chapter for specific notice requirements controlling the revocation of a special use permit.

Failure to mail such notice to every property owner shall not affect the validity of any proceeding before the Board of Adjustment.

(Ord. 789-08 §1)

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FOOTNOTE(S):

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See Key and footnotes on next page. [\(Back\)](#)

**ARTICLE 4 Land Use Districts**

[Sec. 16-4-10. Establishment.](#)

[Sec. 16-4-20. Land use map and interpretation of boundaries.](#)

[Sec. 16-4-30. Amendment \(rezoning\).](#)

**Sec. 16-4-10. Establishment.**

In order to carry out the purpose of this Chapter, the City is hereby divided into the following ten (10) land use districts:

AG	Agricultural
EP	Environmental Preservation
RE	Residential Estate
R-LD	Residential, Low Density
R-MD	Residential, Medium Density
R-MHD	Residential, Medium High Density
R-MH	Residential, Mobile Home
C	Commercial
CC	Commercial Core
I	Industrial

- (1) The purpose of the AG Agricultural district is to identify and zone land which is most suitable for agricultural purposes due to soil quality, location, present land use and the availability of irrigation water. Density and setback regulations for the agricultural districts have been matched to present land use characteristics.



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- (2) The purpose of the EP Environmental Preservation district is to preserve areas of the City which perform important natural functions or which constitute natural hazard areas. Examples of areas suitable for an environmental preservation district are floodplains, undermined areas and major aquifer recharge areas. The allowed uses in the EP Environmental Preservation district are those uses where few people are exposed to the hazards and interference with the natural functions and interference with the natural functions is minimized.
- (3) The purpose of the RE Residential Estate district is to provide a residential environment that retains a rural atmosphere because of large lots, generous setbacks and the allowance of certain agricultural uses. Suitable areas for inclusion in this district are generally located between agricultural land and the higher density residential areas.
- (4) The purpose of the R-LD Residential, Low Density district is to identify and zone land for predominantly single-family use.
- (5) The purpose of the R-MD Residential, Medium Density district is to provide a district which will allow a combination of single-family uses and multiple-family uses. It is anticipated that a large percentage of the multiple-family uses will be duplexes, triplexes and townhouses. The lot size should permit the utilization of single-family "patio homes." Criteria for locating this district include:
  - a. The location of the R-MD Residential, Medium Density district close to commercial areas; and
  - b. As a buffer between lower density single-family uses and higher density multiple-family uses.
- (6) The purpose of the R-MHD Residential, Medium High Density district is to provide a land use district within which both townhouses and apartments can utilize areas of the City for higher density uses.
- (7) The purpose of the R-MH Residential, Mobile Home district is to provide spaces for mobile homes in an overall planned environment specifically tailored to the requirements of the mobile homes and their residents.
- (8) The purpose of the C Commercial district is to provide a district for the location of commercial uses oriented along major thoroughfares.
- (9) The purpose of the CC Commercial Core district is to provide a land use district for those commercial and residential uses that complement one another in such a way as to provide a pleasant living experience in a downtown business environment.
- (10) It is recognized that the City is a small city and any industrial operation which would be located in the City limits would be in close proximity to both residential areas and commercial areas. Accordingly, the purpose of the I Industrial District is to provide a land use in which industrial and manufacturing operations may locate as a permitted use when their operations do not constitute a detriment to the public health or welfare by reason of smoke, radiation, noise, dust, odor, gas, glare, vibration, particulate matter or water pollution; and to provide a location for industrial and manufacturing operations by special use permit when the operation is such that, by reason of any of the foregoing, it may not be appropriate in the particular location in which it chooses to operate or it may require certain safeguards to be appropriate.

(Ord. 789-08 §1)

**Sec. 16-4-20. Land use map and interpretation of boundaries.**

- (a) Land Use Map. The City Council hereby adopts the Land Use Map, a true and correct copy of which shall be maintained on file in the office of the City Clerk.

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- (b) Interpretation of boundaries.
  - (1) In determining the boundaries of land use districts shown on the Land Use Map, the following interpretations shall apply:
    - a. Unless otherwise indicated, the land use boundaries are City limits, the centerlines of streets, roads, highways, alleys, platted lot lines, watercourses, section lines and channelized waterways, or such lines extended.
    - b. In unsubdivided property, land use boundaries shall be determined by use of the scale on the Land Use Map. A legal description acceptable to the Director shall be made available in the event of controversy arising concerning land use district boundaries.
    - c. Where a district boundary is shown by a specific dimension as being located at any given distance from any right-of-way line, such specific dimension shall govern.
  - (2) The Director shall have the authority to review, interpret and determine any boundary disputes pursuant to this Section.

(Ord. 789-08 §1)

**Sec. 16-4-30. Amendment (rezoning).**

- (a) Privately initiated rezoning. The following provisions shall apply to a private citizen or entity who initiates the rezoning process.
  - (1) Any applicant with a fee ownership interest in a property in the City (or with permission of the fee interest owner) may petition the City Council for a change in the land use designation thereof. In addition, any applicant may contemporaneously with or subsequent to the filing of a petition for annexation, file a petition with the City Council requesting a certain land use designation for the parcel of land for which the annexation is sought. The petition shall contain the following information:
    - a. The name, address and nature of interest of the applicant;
    - b. A legal description of the property for which the change is sought;
    - c. A statement of the property's present designation; and
    - d. A detailed statement of the grounds upon which the petitioner relies to establish the necessity for a land use change.
  - (2) Process. Any privately initiated rezoning shall follow the process set forth below and in Section 16-3-20 of this Chapter:
    - a. Notice must be provided to adjacent properties and general public as set forth in Section 16-3-30 of this Chapter.
    - b. The petition shall be reviewed by the Planning Commission, which shall forward its recommendation to the City Council.
    - c. Subsequent to a recommendation from the Planning Commission, the City Council shall schedule a public hearing as set forth in Section 16-3-20 of this Chapter. In addition, a sign must be posted as set forth in Section 16-3-30.
    - d. Standards for rezoning. All actions by the Planning Commission in reviewing and making recommendations on a rezoning application and by the City Council in approving or disapproving such application shall be based in general upon the provisions of this Chapter and on the following additional criteria:

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1. That the existing land use is inconsistent with the goals, objectives or policies of the Comprehensive Plan.
  2. That the land proposed for rezoning, or the adjacent land, has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of this Chapter to encourage different densities or uses within the land in question.
  3. That the proposed rezoning is needed to provide land for a demonstrated community need or service, and such rezoning will be consistent with the goals, objectives and policies contained within the Comprehensive Plan.
  4. That the existing land use classification currently recorded on the Land Use Map is in error.
  5. That the change of land use is in conformance or will bring the property into conformance with the Comprehensive Plan goals, objectives and policies and other related policies or plans for the area.
  6. That the proposed change of land use is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived.
  7. That there will be social, recreational, physical or economic benefits to the community derived by the change of land use.
  8. That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of land use, or that the applicant will upgrade and provide such where nonexistent or under capacity.
  9. That the proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems or seriously reducing light and air to adjacent properties.
  10. That the rezoning will not create an isolated or spot land use district unrelated to adjacent or nearby areas.
- e. Burden of proof. The applicant shall carry the burden of demonstrating that the land in question should be rezoned and that the advantages resulting from rezoning would outweigh any disadvantages that would result. All applicants are advised that there is no right to a change of land use.
- (3) Action by City Council. At any time subsequent to the public hearing, the City Council, upon being satisfied that sufficient grounds exist for effecting the land use change requested, may adopt an ordinance upon final reading, incorporating the proposed amendment by a majority vote of a quorum present.
  - (4) Amendment of Official Land Use Map. Upon passage of any ordinance amending land use, a true and correct copy of the ordinance of the City Council approving such rezoning shall be filed with the City Clerk, and the Land Use Map shall be amended to reflect the change in land use.
  - (5) Fees and costs.
    - a. All applicants must pay a fee as set forth in Appendix 16-C to this Chapter.
    - b. All costs associated with the land use amendments under this Section shall be paid by the applicant proposing the change in land use.
- (b) City-initiated rezoning. The following provisions shall apply to a rezoning initiated by the City:
- (1) The Planning Commission may recommend, or the City Council may initiate on its own motion, amendments to the Land Use Map or a change in land use designation of any property within

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the City. In addition, the Planning Commission may recommend, or the City Council may initiate on its own motion, legislative amendments to this Chapter.

- (2) Process.
  - a. Amendments to the Land Use Map or land use within the City shall follow the process set forth in Paragraphs (a)(2) through (4) above.
  - b. Legislative amendments to this Chapter shall be by ordinance of the City Council.
- (3) Adjustment of boundaries or Land Use Map amendments.
  - a. Where a lot is divided by a land use district boundary line, the City Council may, by ordinance, adjust the boundary line for a distance of up to twenty-five (25) feet where it deems such adjustment is in the best interest of the City.
  - b. When an error is found to exist on the Land Use Map, the City Council may make such correction by ordinance.
- (4) Fees and costs. Fees and costs of City-initiated rezoning shall be borne by the City, unless the City has negotiated a reimbursement agreement with another interested party.

(Ord. 789-08 §1)

**ARTICLE 5 District Standards**

[Sec. 16-5-10. Site plan review.](#)

[Sec. 16-5-20. Lots and yards.](#)

[Sec. 16-5-30. Useable open space.](#)

[Sec. 16-5-40. Height.](#)

[Sec. 16-5-50. Fencing and screening.](#)

[Sec. 16-5-60. Landscaping.](#)

[Sec. 16-5-70. Vision clearance area.](#)

[Sec. 16-5-80. Parking, loading and stacking.](#)

[Sec. 16-5-90. Commercial architecture design.](#)

**Sec. 16-5-10. Site plan review.**

- (a) Eligibility. The requirements of this Section shall apply to site development on property for which the use proposed is a use by right (permitted use) as defined by this Chapter; provided, however, that this Section shall not apply to single-family or two-family dwellings.
- (b) Submission requirements. A site plan must include the following information. The Director may request additional information or waive submission of certain items as deemed necessary for the review of the site plan:
  - (1) A vicinity map;
  - (2) Existing and proposed lot lines;
  - (3) A signed surveyor's certification;

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- (4) A legal description matching the certified survey;
  - (5) Scale and north arrow;
  - (6) Date of map preparation and the name and address of person who prepared map;
  - (7) Location of one-hundred-year floodplain;
  - (8) Existing and proposed contours at two-foot intervals;
  - (9) Location of all existing and proposed:
    - a. Setbacks existing and proposed;
    - b. Fences, walls or screen plantings and the type and height;
    - c. Exterior lighting, including location, height and type;
    - d. Signs, including type, height and size;
    - e. Landscaping;
    - f. Parking and loading areas, including handicap parking areas;
    - g. Easements and rights-of-way;
    - h. Buildings to be developed or retained on the site, including possible use, height, size, floor area and type of construction;
    - i. Existing and proposed streets, including names, widths, location of centerlines and acceleration/deceleration lanes;
    - j. Curbs, gutters, sidewalks and trails;
    - k. Location of trash containers and method of screening;
    - l. Areas to be used for outside work areas, storage or display and method of screening.
  - (10) Adjoining property lines, buildings, access and parking, so that development compatibility can be determined;
  - (11) A statement of proposed land use and any related conditions;
  - (12) A statement of proposed uses;
  - (13) Site data, including:
    - a. Total area of property (gross and net);
    - b. Building coverage;
    - c. Landscape coverage;
    - d. Total lot coverage by all structures and paving;
    - e. Number of parking spaces;
    - f. Gross floor area; and
    - g. Number of residential units and density, if applicable.
  - (14) Signature block for Director or City Council (as determined by Director);
  - (15) A drainage plan prepared by a professional engineer registered in Colorado, if requested; and
  - (16) Traffic impact report, if requested.
- (c) Review process. Except as otherwise specifically provided herein, site plans shall be reviewed by the Director, who may approve, deny or conditionally approve the proposal. Upon approval, the Director

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shall sign the plan in the designated signature block. Site plans that include a proposed special use shall be reviewed by the City Council concurrently with the associated special use permit application.

- (d) Appeals. Upon final decision of the Director, an applicant may appeal the decision to the Board of Adjustment. Final decisions of the City Council are appealable as provided by law.

(Ord. 789-08 §1)

**Sec. 16-5-20. Lots and yards.**

- (a) No building shall be erected, reconstructed or structurally altered in any manner which will reduce in any manner the lot area, lot width, lot coverage or yard provisions specified for the land use district in which such building is located.
- (b) Lot and yard standards for all land use districts are specified in Table 5-1, Land use District Standards.
- (c) No lot or yard existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of this Chapter shall meet at least the minimum requirements established by this Article.
- (d) No part of a yard required in connection with any building for the purpose of complying with this Article shall be included as part of a yard similarly required for any other building, unless otherwise specified herein.
- (e) Every building hereafter erected or moved shall be located on a lot with access on a public street, and all buildings shall be so located on lots as to provide for safe and convenient access, fire protection and required off-street parking.
- (f) Where lots have double frontage, the required front yards shall be provided on both streets.
- (g) Corner lots shall provide at least the front yard setback on both streets upon which the lot fronts, and the remaining setbacks shall at least provide the side yard setbacks as required for the zone in which the lot is located.
- (h) Where twenty-five percent (25%) or more of the lots in a block frontage are occupied by buildings which provide front yards of less than the minimum specified in Table 5-1, Land Use District Standards, the average front yard of such buildings may determine the required front yard; provided, however, that no front yard shall be reduced to less than ten (10) feet (except in land use districts which do not require front yards). Where an existing building is deficient in front yard, any addition to such an existing building shall maintain the existing front yard.
- (i) Where sixty percent (60%) or more of the lots in a block frontage are occupied by buildings which provide side yards of less than the minimum specified in Table 5-1, Land Use District Standards, the average side yard of such buildings may determine the required side yard; provided, however, that no side yard shall be reduced to less than three (3) feet (except in land use districts which do not require side yards). Where an existing building is deficient in side yards, any addition to such an existing building shall maintain the existing side yards.
- (j) No structure or part thereof shall project into a required front yard except:
  - (1) An eave, cornice, overhang, awning, balcony or bay window not exceeding four (4) feet; provided, however, that in no event shall said encroachment protrude closer than twenty (20) feet to a front lot line.
  - (2) The ordinary projection of belt courses, sills, lintels, chimneys and other similar ornamental and architectural features not exceeding two (2) feet.

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- (3) Unenclosed, uncovered steps, entrance platforms, terraces or landings not over eighteen (18) inches above grade level and not to project a distance in excess of ten (10) feet.
- (k) No structure or part thereof shall project into a required side or rear yard except:
  - (1) An eave, cornice, overhang, awning, balcony or bay window not exceeding four (4) feet; provided, however, that said encroachment shall not protrude closer than two (2) feet to any side or rear lot line.
  - (2) The ordinary projection of belt courses, sills, lintels, chimneys and other similar ornamental and architectural features not exceeding two (2) feet, except for structures specifically built to produce shade, such as trellises.
  - (3) Unenclosed, uncovered steps, entrance platforms, terraces or landings not over eighteen (18) inches above grade level; provided, however, that said encroachment shall not protrude closer than two (2) feet to any side or rear lot line.
  - (4) Open or lattice-enclosed fire escapes or fireproof outside stairways projecting not more than five (5) feet; provided, however, that said encroachment shall not protrude closer than two (2) feet to any side or rear lot line.
- (l) No portion of any required front, side or rear yard shall be used for the permanent storage of inoperable motor vehicles (except as permitted by Chapter 7-2-110 of this Code), mobile homes, airplanes or parts thereof, rubbish, garbage, junk, tent or building materials, except during construction and in accordance with the terms of this Chapter. Permanent storage for purposes of this Subsection shall be construed as the presence of such storage for a period of forty-eight (48) or more consecutive hours in any one-week time period.

(Ord. 789-08 §1)

**Sec. 16-5-30. Useable open space.**

- (a) Useable open space standards for all land use districts are specified in Table 5-1, Land Use District Standards.
- (b) The following examples are listed by way of illustration to indicate what may be counted as usable open space within the meaning of this Section:
  - (1) Outdoor swimming pools, swimming pool areas, hard surface recreational areas and other recreational areas; provided that these areas are unenclosed except for fences, canopies, bath houses or other minor structures.
  - (2) Driveways that provide two (2) parking spaces or less.
  - (3) Roof gardens.
  - (4) Trails and sidewalks.
- (c) The following examples are listed by way of illustration to indicate what may not be counted as usable open space within the meaning of this Section:
  - (1) Public or private rights-of-way for streets or highways.
  - (2) Areas covered by a building, except for that portion which may be devoted to a roof garden.
  - (3) Open parking areas.

(Ord. 789-08 §1)

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**Sec. 16-5-40. Height.**

- (a) Building height standards for principal and accessory structures in all land use districts are specified in Table 5-1, Land Use District Standards.
- (b) The following items shall be exempt from the building height limitations contained in individual land use districts:
  - (1) Chimneys, church spires, flag poles and similar structural appendages not intended as places of occupancy or storage, provided that no more than one-third (?) of the total roof area is occupied by such features.
  - (2) Commercial Mobile Radio System (CMRS) and Wind Energy Conversion System (WECS) structures shall be subject to the height limitations set forth in Sections 16-7-50 and 16-7-90 of this Chapter, respectively. Any guy wire anchors associated with freestanding CMRS and WECS structures shall be located in compliance with all setback provisions of the land use district in which they are located.
  - (3) Freestanding flag poles and other similar structures, provided that such structures and any guy wire anchors associated with such structures shall be located in compliance with all setback provisions of the land use district in which they are located.
  - (4) Heating, ventilation and air conditioning equipment, roof water tanks, elevator shafts, solar collectors, skylights and similar equipment to operate and maintain the building; provided that such equipment shall be set back from the edge of the roof a minimum distance of one (1) foot for each ten (10) feet in elevation that such equipment, fixtures or devices extend above the roof surface.

**TABLE 5-1  
Land Use District Standards**

Land Use District	AG	EP	RE	R-LD	R-MD	R-MHD	R-MH	C	CC	I
A. Minimum lot area	40 acres	5 acres	1 acre	7,500 sq. ft.	4,500 sq. ft.	3,000 sq. ft.	4,500 sq. ft.	15,000 sq. ft.	3,500 sq. ft.	20,000 sq. ft.
B. Minimum usable open space per dwelling unit	N/A	N/A	N/A	3,000 sq. ft.	1,800 sq. ft.	1,000 sq. ft.	1,800 sq. ft.	N/A	N/A	N/A
C. Minimum yard setbacks from lot lines:										
(1) Front yard	30 ft.	30 ft.	25 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	0 ft.	25 ft.
(2) Rear yard	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	10 ft.	10 ft.	20 ft.	15 ft.	40 ft.



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(3) Side yard	10 ft.	10 ft.	10 ft.	5 ft.	5 ft.	5 ft.	10 ft.	10 ft.	0 ft.	20 ft.
D. Maximum building height										
(1) Principal structure	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	45 ft.	45 ft.	45 ft.
(2) Accessory structure	35 ft.	35 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	25 ft.	25 ft.	45 ft.

N/A = Not Applicable

(Ord. 789-08 §1; Ord. 827-14 §2)

**Sec. 16-5-50. Fencing and screening.**

- (a) Fences used for agricultural purposes, recreation use or public safety are not regulated by this Chapter.
- (b) No fence shall be placed closer than eighteen (18) inches to any public sidewalk.
- (c) Height, including retaining walls or other structures, shall be measured as follows:
  - (1) In required yards abutting a street, it shall be the total effective height measured from the finished grade on the side nearest the street.
  - (2) In other required yards, it shall be the total effective height above the finished grade measured on the side nearest the abutting property.
  - (3) On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreement.
- (d) Fences used for residential purposes shall be subject to the following provisions:
  - (1) Fences shall be allowed in side and rear yards up to a height of seven (7) feet.
  - (2) Fences shall be allowed to extend alongside front yard property lines, provided that the fence shall be of an open or chain-link type and shall not exceed four (4) feet in height.
  - (3) Fencing intended for decorative purposes only, and which does not include any area to be completely enclosed, may be allowed on any part of a parcel, provided that it does not exceed three (3) feet in height.
  - (4) No barbed wire or other sharp or jagged materials along the top of a fence or wall shall be permitted.
  - (5) No electrically charged fence, except those installed underground for the purpose of containing domestic pets within a residential lot, shall be permitted.

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- (e) Fences in business (C Commercial, CC Core Commercial) or I Industrial land use districts intended for security purposes shall not exceed a maximum height of eight (8) feet.
- (f) All open off-street parking areas with five (5) or more spaces shall be screened from any adjoining residentially zoned lot by a solid fence or wall at least four (4) feet in height or by a landscape screen at least four (4) feet wide.
- (g) Nonresidential and multi-family refuse disposal Dumpsters shall be screened on three (3) sides by the construction of permanent opaque wooden, brick or masonry screens. Such screening shall be a minimum of six (6) feet in height and a maximum of eight (8) feet in height. The fourth side which provides access to the Dumpster for refuse collectors shall be gated and situated so that the container is not visible at an angle greater than forty-five (45) degrees from adjacent public streets.
- (h) Where any drive-in or drive-through facility abuts a residential use, a buffer landscape strip at least twenty (20) feet in width shall be provided and maintained along the side and rear lot lines, within which buffer a decorative fence or wall and a landscape screen not less than six (6) feet in height shall be provided.
- (i) All nonresidential manufacturing, assembling, construction, repairing, maintenance and storage which takes place outdoors and which is within fifty (50) feet of a public street or a residential land use district shall require an approved landscape screen. All other storage shall be completely enclosed by a six-foot-high screen consisting of a solid fence, masonry wall, dense plant material or any combination thereof.
- (j) Screening may consist of both natural and man-made materials, provided that the materials create a continuous visual screen. The following screening types may be used.
  - (1) Plant materials shall be characterized by dense growth and shall form an effective year-round screen within three (3) years of the date of planting.
  - (2) Fences and walls shall be solid and opaque and shall be made of wood, brick, masonry materials or materials of a similar appearance.
  - (3) Earthen berms shall have a maximum slope of 3:1, shall not exceed three (3) feet in height and must be entirely vegetated with lawn or ground cover within two (2) years of the date of planting.
- (k) No fence or screening placed within thirty (30) feet of the intersection of two (2) public streets shall restrict, obstruct or otherwise interfere with visibility so as to construe a traffic hazard (see Section 16-5-70 below).

(Ord. 789-08 §1)

**Sec. 16-5-60. Landscaping.**

- (a) Landscaping and buffering shall be required to increase the compatibility of development with the natural environment or physically separate and visually screen adjacent uses and land use districts that are not fully compatible.
- (b) When required by the Director, a landscape plan shall be submitted by the applicant that is prepared by a landscape architect or other professional experienced in landscape design and the installation and care of plant materials.
- (c) When any development provides parking for more than ten (10) vehicles, at least ten percent (10%) of the total area of the parking lot shall be used for landscaping and buffering treatments. In addition:
  - (1) A minimum of one (1) tree (planted in tree islands) for each ten (10) parking spaces shall be located within the parking area or lot.

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- (2) Tree islands shall be installed intermittently, have a length equal to a parking stall and be four (4) feet by four (4) feet in dimension at a minimum, to protect plantings from vehicles and foot traffic and to accommodate a tree root system.
- (3) Off-street parking areas and driveways parallel to public sidewalks shall be separated from such walks by a landscape buffer at least eight (8) feet wide.
- (4) All unimproved earth areas shall be planted, restored or otherwise protected from erosion.
- (5) Ongoing maintenance, including the replacement of dead or unhealthy plants, shall be provided by the parking area owner or leaseholder.
- (d) The provision of landscaping as provided for in this Article shall be modified in any situation in which existing trees or vegetation are preserved. A credit for the planting of trees of one-half ( $\frac{1}{2}$ ) inch for each one (1) inch of aggregate tree caliper preserved shall be awarded to the landscaping required by this Article. A credit for the preservation of undergrowth and shrubs shall be awarded on a one-to-one basis for the lineal feet of screening provided by the existing undergrowth and shrubs.
- (e) Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, except that a vision clearance area shall be provided when required (see Section 16-5-70 below).
- (f) See Chapter 7, Article 6 of this Code for additional provisions regarding the planting of trees.

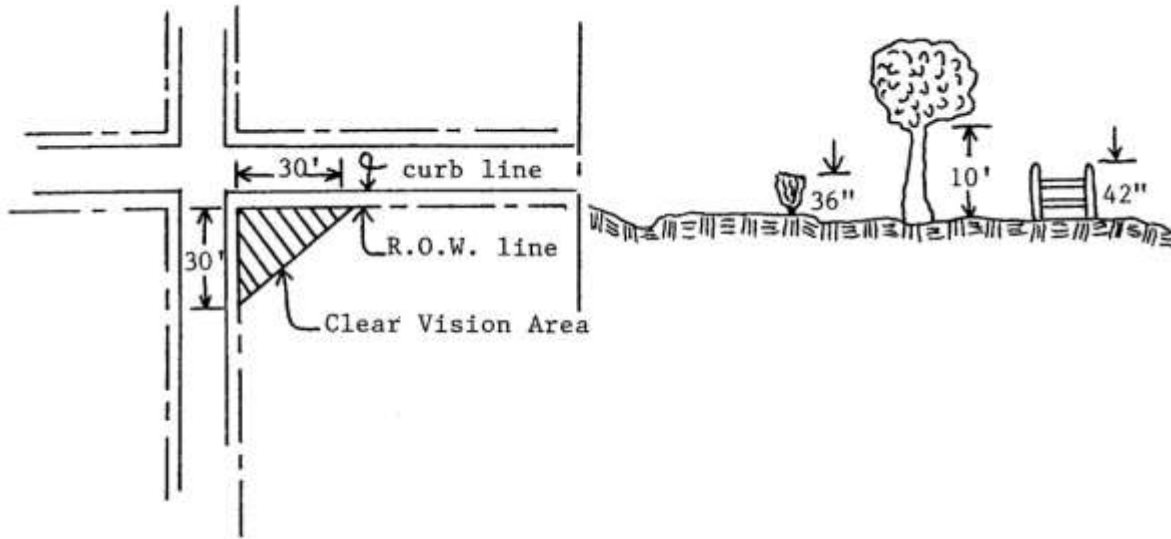
(Ord. 789-08 §1)

**Sec. 16-5-70. Vision clearance area.**

- (a) In all land use districts except the CC Commercial Core land use district, a triangular space at the street corner of a corner lot shall be maintained free from any kind of obstruction to vision between a height of thirty-six (36) inches and ten (10) feet above the centerline grades of the intersecting street in the area bounded by the street right-of-way lines, such corner lots and a line joining points along said street right-of-way lines thirty (30) feet from the point of intersection (see Figure 5.1 Vision Clearance Area below).
- (b) See Chapter 7, Article 6 of this Code for additional provisions regarding the planting of trees in the public right-of-way.

FIGURE 5-1  
Vision Clearance Area

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(Ord. 789-08 §1)

**Sec. 16-5-80. Parking, loading and stacking.**

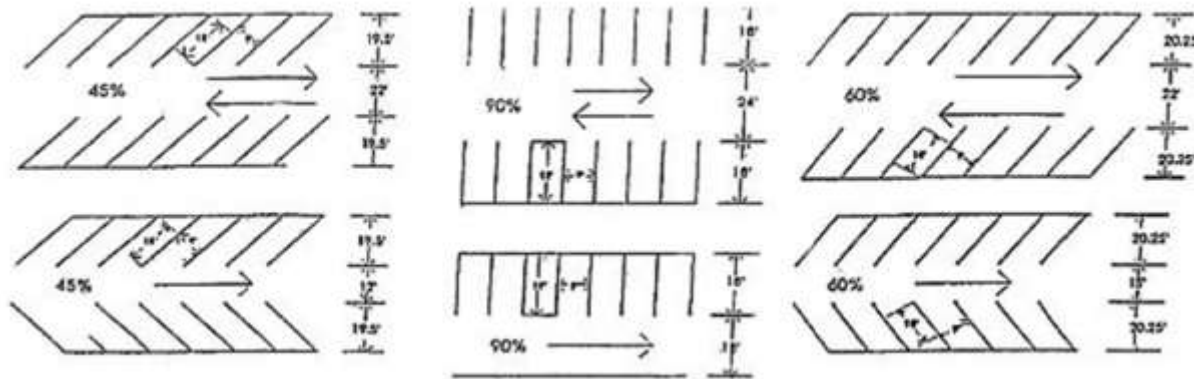
- (a) Off-street parking, loading and stacking facilities shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this Chapter.
- (b) No use lawfully established prior to the effective date of this Chapter shall be required to provide and maintain the parking, loading and stacking requirements herein; provided, however, that off-street parking, loading and stacking spaces required by any Chapter previously adopted shall be continued and maintained.
- (c) Off-street parking, loading and stacking facilities in existence prior to the effective date of this Chapter shall not hereafter be reduced below or, if already less than, shall not be further reduced below, the requirements for a similar new use under the provisions of this Chapter.
- (d) Whenever the existing use of a building, structure or premises shall be changed or converted to a new use permitted by this Chapter, parking, loading and stacking facilities shall be provided as required for such new use.
- (e) For any nonconforming use which is hereafter damaged or partially destroyed, as set forth in Paragraph 16-2-30(c)(3) of this Chapter, and which is lawfully reconstructed, re-established or repaired, off-street parking, loading and stacking facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, however, that in no case shall it be necessary to restore or maintain parking, loading and stacking facilities in excess of those required by this Article for equivalent new uses.
- (f) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other unit of measurement, parking, loading and stacking facilities as required herein shall be provided for such increase in intensity of use.
- (g) Access of a minimum width of ten (10) feet shall be provided to all off-street parking, loading and stacking areas.

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- (h) Off-street parking spaces shall be provided on the same lot as the use served, except as otherwise provided in this Article, and may be situated in one (1) or more individual areas. Parking areas must be located within three hundred (300) feet of the main entry of the use they serve.
- (i) All parking areas (except for single-family dwellings) shall provide:
  - (1) An asphalt, concrete or similar permanent paved surface sufficient to allow unhindered passage of vehicles.
  - (2) Suitable curbs or barriers to protect public sidewalks and to prevent parking in areas where parking is not permitted. Wheel or bumper guards shall be located so that no part of any vehicle shall extend beyond the boundary lines of the parking area, intrude on pedestrian ways or come in contact with walls, fences or plantings.
- (j) Off-street parking facilities may be provided jointly for separate uses, as determined by the Director based upon requirements for multiple uses, expected demand generated by the proposed uses, times of operations of the proposed uses and other information from appropriate traffic engineering and planning criteria.
- (k) Off-street parking facilities required herein shall be utilized solely for the parking of passenger automobiles or trucks of not more than one-and-one-half-ton capacity by patrons, occupants or employees of specified uses. Parking facilities shall not be used for the repair, dismantling or wrecking of any vehicle, equipment or material, provided that the parking of a school bus or other municipally owned vehicle on a lot as an accessory use may be permitted at any time in any case.
- (l) Parking space design shall be in accordance with Figure 5.2 Parking Space Design and its accompanying table below.

FIGURE 5.2  
Parking Space Design



Parking Angle	Parking Space Width	Parking Space Length	Aisle	Single-Loaded Module Width	Double-Loaded Module Width
Parallel	8.0	22.0	12.0/22.0 *	20.0/30.0 *	28.0/38.0 *
0°—45°	8.5	18.0	12.0/22.0	31.5/41.5 *	51.0/61.0 *

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			*		
46°—60°	9.0	18.0	15.0/22.0 *	35.25/42.25 *	55.5/62.25 *
61°—90°	9.0	18.0	18.0/24.0 *	36.0/60.0 *	51.25

Note: Required parking for stall angles other than those contained in the above table may be interpolated from the table.

Note: For purposes of measurement, drives with parking on 1 side only shall be considered as one-way drives.

- (1) Off-street parking spaces for the physically handicapped shall be twelve (12) feet wide, unless the space is parallel to a pedestrian walk. The parallel-handicapped parking space shall be adjacent or close to an ADA approved ramp. Other dimensions shall be the same as those for standard parking spaces. Handicapped spaces shall have unimpeded ramp access to a walk. Every handicapped parking stall shall be identified at the head of the parking space with a raised, standard identification sign centered between three (3) feet and five (5) feet above the parking surface. The sign shall include the international symbol for accessibility and state "reserved" or contain similar wording. Refer to: <http://www.usdoj.gov/crt/ada> for more information on ADA requirements.
- (2) The number of off-street parking spaces required for each use is set forth in Table 5-2, Off-Street Parking Requirements below. Where the use of the premises is not specifically mentioned, parking requirements shall be determined by the Director based upon requirements for similar uses, expected demand generated by the proposed use, temporal factors and other information from appropriate traffic engineering and planning criteria. The number of off-street parking spaces required for the physically handicapped shall be per current ADA requirements. Refer to: <http://www.usdoj.gov/crt/ada> for more information on ADA requirements.

**TABLE 5-2  
Off-Street Parking Requirements**

Use	Minimum Required Parking Spaces
Educational Uses	
Child care center or preschool	1 space per 1 employee, plus 1 space per 6 children

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Elementary or junior high school	1 space per 15 students
High school	1 space per 4 students
Vocational or technical school	1 space per 2 students
Entertainment Uses	
Bowling alley	4 spaces per alley, plus 1 additional space for every 4 employees
Golf course	5 spaces per hole, plus 1 space per 2 employees
Restaurant	16 spaces per 1,000 sq. ft. of gross floor area; use shared parking analysis for supplementary uses, i.e., lounge
Stadium or arena	1 space per 6 seats
Theater	1 space per 5 seats
Industrial Uses	
Manufacturing or industrial use	1.5 spaces per 1,000 sq. ft. of gross floor area
Warehouse	0.75 space per 1,000 sq. ft. of gross floor area
Institutional Uses	
Church or religious institution	0.75 space per seat; use shared parking analysis for supplementary uses, i.e., child care center
Club or lodge	3 spaces per 1,000 sq. ft. of gross floor area
Community center	2 spaces per 1,000 sq. ft. of gross floor area, plus 1 space per 3 persons permitted capacity if

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	recreational facilities are included
Correctional facility	1 space per 5 beds
Government office	3 spaces per 1,000 sq. ft. of gross floor area or as determined by the Director
Library or museum	2 spaces per 1,000 sq. ft. of gross floor area
Residential Uses	
Bed and breakfast	1 space per guest room; use shared parking analysis for supplementary uses, i.e., single-family dwelling unit
Dwelling unit, multi-family	1.5 spaces per dwelling unit, plus 1 space for visitors per 5 dwelling units
Dwelling unit, single-family, two-family or manufactured home	2 spaces per dwelling unit
Hotel or motel	1 space per guest room; use shared parking analysis for supplementary uses, i.e., restaurant/lounge, meeting/banquet room
Nursing home or assisted living facility	1 space per 2 beds
Rooming house	1 space per bedroom
Retail Uses	
Auto sales	1 space per 1,000 sq. ft. of gross floor area
Grocery store	6 spaces per 1,000 sq. ft. of gross floor area
Retail business	4 spaces per 1,000 sq. ft. of gross floor area



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Services	
Bank or financial institution	4 spaces per 1,000 sq. ft. of gross floor area
Furniture or appliance repair	2 spaces per 1,000 sq. ft. of gross floor area
Hospital or sanitarium	1 space per 2 employees, plus 1 space per 3 beds, plus 1.5 spaces per 1 emergency room bed, plus 1 space per 5 average daily outpatient treatments
Medical or dental clinic	5 spaces per 1,000 sq. ft. of gross floor area
Personal services	4 spaces per 1,000 sq. ft. of gross floor area
Professional office	3 spaces per 1,000 sq. ft. of gross floor area
Vehicle repair	4 spaces per 1,000 sq. ft. of gross floor area

- (3) Each required off-street loading space shall be of a size not less than that required for an off-street parking space but scaled larger to delivery vehicles expected to be used, logically and conveniently located for bulk pickups and deliveries and accessible to such vehicles when required off-street parking spaces are filled; provided that, for industrial uses, the off-street area required for the off-street loading space shall be a twelve-foot by forty-five-foot loading space with a fourteen-foot height clearance; provided further that, if more than one (1) berth is provided the minimum dimensions are held to be ten (10) feet by forty-five (45) feet with a fourteen-foot height clearance.
- (4) The number of off-street loading spaces required for each use is set forth in Table 5-3, Off-Street Loading Requirements below. Where the use of the premises is not specifically mentioned, loading requirements shall be determined by the Director based upon requirements for similar uses, expected demand generated by the proposed use, temporal factors and other information from appropriate traffic engineering and planning criteria.

**TABLE 5-3  
Off-Street Loading Requirements**

Uses	Square Feet of	Required Off-Street Loading
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	Gross Floor Area	Berths
Commercial Uses		
Hospital (in addition to space for ambulance)	For 10,000—300,000 For each additional 300,000 or major fraction thereof	1  1 additional
Hotel	For each 10,000	1
Mortuary	For each 5,000	1
Office	For each 10,000	1
Retail or wholesale	10,000—25,000 25,000—50,000 50,000—100,000 For each additional 50,000 or major fraction thereof	1 2 3  1 additional
Industrial Uses		
Manufacturing or warehousing	10,000—25,000 25,000—40,000 40,000—60,000 60,000—100,000 For each additional 50,000 or major fraction thereof	1 2 3 4  1 additional
Institutional Uses		

- SUPPLEMENT HISTORY TABLE

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School	For each 15,000	1
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- (5) The purpose of stacking space requirements is to promote public safety by alleviating on-site and off-site traffic congestion that might otherwise result from the operation of a drive-up or drive-through facility. For all applicable drive-up or drive-through uses, the following off-street stacking requirements shall apply:
- a. At a minimum, a stacking space shall be eight and one-half (8½) feet wide and eighteen (18) feet long.
  - b. A stacking space at a drive-in or drive-through window, menu board, order station, designated drop-off zone or service bay is considered to be a stacking space.
  - c. An area reserved for stacking spaces may not double as a circulation driveway, maneuvering area or off-street parking space.
  - d. Stacking spaces may be located anywhere on the building site, provided that traffic impacts on and off site are minimized and the location does not create negative impacts on adjacent properties due to noise, light or other factors.
  - e. A minimum of four (4) stacking spaces per one thousand (1,000) square feet of gross floor area plus two (2) stacking spaces for the first drive-through window and two (2) stacking spaces for each additional window shall be provided.
  - f. For uses that have drive-through bays or stalls, e.g., car washes, a minimum of two (2) stacking spaces per bay or stall shall be provided.

(Ord. 789-08 §1)

**Sec. 16-5-90. Commercial architecture design.**

New development in the C Commercial land use district shall meet the following minimum design standards:

- (1) Building facades.
  - a. Primary facades. Ground floor facades abutting public roads and/or parking lots shall have arcades, display windows, entry areas, awnings or other such features. The facade features shall total a minimum of sixty percent (60%) of the horizontal length of the primary facade.
  - b. Secondary facades. Any facade other than a primary facade shall include an expression of articulated architectural design through a change in plane of no less than twelve (12) inches in width, such as offsets, reveals or projecting ribs.
- (2) Entrances. Primary facades of retail and personal service establishments larger than twenty-five thousand (25,000) square feet shall have clearly defined, highly visible customer entrances that feature unique architectural features, including but not limited to canopies, overhangs, recesses, arcades, peaked roof forms, arches, outdoor patios, display windows and integral planters.
- (3) Building materials. Predominant exterior building material on all sides shall be high quality material, including the following and other materials with similar appearances and characteristics: brick, native stone, stucco or wood. Exterior building material such as smooth-faced concrete block, aluminum or vinyl siding or prefabricated steel panels are discouraged.

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- (4) Building roof.
  - a. Parapets shall conceal flat roofs and rooftop equipment, such as HVAC units. Average height of such parapets shall not exceed fifteen percent (15%) of the supporting wall.
  - b. Overhanging eaves shall extend no more than three (3) feet past the supporting wall.
  - c. Sloping roofs shall not exceed the average height of the supporting wall.

(Ord. 789-08 §1)

**ARTICLE 6 District Uses**

[Sec. 16-6-10. Permitted uses.](#)

[Sec. 16-6-20. Special uses.](#)

[Sec. 16-6-30. Accessory structures and uses.](#)

[Sec. 16-6-40. Temporary uses.](#)

[Sec. 16-6-50. Determination of land uses not listed.](#)

[Sec. 16-6-60. District Use Table \(permitted and special uses\).](#)

**Sec. 16-6-10. Permitted uses.**

A permitted use is a use allowed by right in a land use district without further conditions other than those imposed on all permitted uses. A permitted use is not required to demonstrate need for its location. Such use therefore does not require approval to locate in a land use district in which it is permitted.

(Ord. 789-08 §1)

**Sec. 16-6-20. Special uses.**

- (a) A special use is a use allowed in a land use district only by special use permit approved by the City Council. A special use is a use which the City Council finds is essentially desirable to the community but the indiscriminate allowance of which within a district could cause traffic congestion, noise and general deleterious effects on the values, safety or health of the community. Therefore, the City Council considers each special use on an individual basis with emphasis on the conditions of the specific site and its environs and adequate and sufficient safeguards to lessen the impact of the use.
- (b) An application for a special use permit shall be subject to those requirements designated by the Review Process Chart set forth in Section 16-3-20 of this Chapter and the Public Notice Requirements Chart set forth in Section 16-3-30 of this Chapter. The application shall be subject to those fees designated by the Fee Schedule set forth in Appendix 16-C to this Chapter.
- (c) In considering an application for a special use permit, the City Council shall consider:
  - (1) The compatibility of the use with adjacent uses and adjacent land use districts, as applicable, including the use's potential traffic generation, noise, lighting, parking requirements and general deleterious effects on such adjacent uses and properties;
  - (2) Conformance with the Comprehensive Plan; and

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- (3) The applicant's history of land use compliance within the City.
- (d) The City Council may impose conditions on a special use permit designed to lessen the adverse impacts, if any, of the special use, to protect the health, safety and welfare of City residents, and to ensure compliance with all other applicable provisions of this Chapter.
- (e) A special use permit may be revoked by the City Council for failure to comply with any of the terms and conditions attached to such permit. Prior to revocation, the applicant shall be notified, in writing, of the City Council's consideration of the revocation at least ten (10) days prior to such consideration. Such notice may be personally served, mailed to the applicant's last known address by U.S. mail, first-class, or conspicuously posted on the property upon which the use is located. If notice is posted, such notice shall remain conspicuously posted on the property for at least five (5) of the ten (10) days preceding the City Council's consideration. When the City Council considers the revocation, the applicant may appear, present evidence on his or her own behalf and cross-examine any witnesses who testify in favor of revocation. If a special use permit is revoked, the City Council shall issue written notice of revocation within ten (10) days of the completion of its consideration thereof. Such notice may be served personally upon the applicant or mailed to his or her last known address by U.S. mail, first-class.
- (f) At the time of permit issuance, the City Council may, in its discretion, specify that the length of the permit is one (1) of the terms provided below. In the absence of any specific findings or orders of City Council concerning the length of an approved special use permit application, the permit shall be deemed to be nontransferable and personal to the applicant. A special permit may:
  - (1) Be personal to the original applicant;
  - (2) Run with the original location for which the permit is approved; or
  - (3) Be otherwise transferable, upon such terms and conditions specified by the City Council.

(Ord. 789-08 §1)

**Sec. 16-6-30. Accessory structures and uses.**

- (a) Accessory structures shall comply with the following limitations:
  - (1) No part of any accessory structure shall be located closer than ten (10) feet to any principal structure. If a garage is located closer than ten (10) feet to the main building, the garage shall be regarded as a part of the main building for the purposes of determining side and rear yards.
  - (2) Accessory structures shall not be located in the front yard of a principal structure.
  - (3) Accessory structures may be built in a required rear yard, but such accessory building shall not occupy more than thirty percent (30%) of the area of a required rear yard and shall not be nearer than two (2) feet to any side or rear lot line; except that, when a garage is entered from an alley at right angles, it shall not be located closer than ten (10) feet to the alley line. Accessory structures on corner lots shall be set back from each street a distance not less than that required for the principal structure.
  - (4) No accessory structure shall be built upon a lot until the construction of the main building has been actually commenced.
- (b) Accessory structures such as public utility installations, mailboxes, nameplates, lampposts, birdbaths and structures of a like nature are permitted in any required front, side or rear yard without the issuance of any permit.
- (c) No accessory structure shall be used for dwelling purposes.

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- (d) Accessory uses shall comply with all requirements for the principal use except where specifically modified by this Section, and shall also comply with the following limitations:
  - (1) An accessory use shall be clearly incidental, customary to and commonly associated with the operation of the permitted use.
  - (2) An accessory use shall be operated and maintained under the same ownership as the permitted use.
  - (3) An accessory use shall include only those structures or structural features consistent with the permitted use, subject to additional provisions for individual accessory uses specified within this Section.
- (e) The renting of rooms may be permitted in all residential districts as an accessory use, provided that the total number of unrelated persons, including roomers, in any one (1) dwelling unit shall not exceed three (3) persons.
- (f) A greenhouse may be maintained in a residential district as an accessory use only if there are no sales from the premises.
- (g) A swimming pool may be permitted in any land use district as an accessory use subject to the following additional requirements:
  - (1) No swimming pool shall be located in any required front or side yard abutting a street and no closer than ten (10) feet from any dwelling or property line.
  - (2) The surface area of the pool structure, excluding decking, may not exceed ten percent (10%) of the area of the rear yard.
  - (3) Every swimming pool shall be equipped with a power safety pool cover or be completely surrounded by a fence or wall not closer than six (6) feet to the edge of the pool structure (excluding decking) at any point and not less than forty-two (42) inches in height with no openings large enough to permit children to pass through other than gates or doors that can be fastened to prevent entry. A principal or accessory building may be used as part of such required enclosure.
  - (4) All gates or doors through such enclosures must be equipped with self-closing and self-latching devices for keeping the gate or door securely closed at all times when not in actual use.

(Ord. 789-08 §1)

**Sec. 16-6-40. Temporary uses.**

- (a) The following temporary uses of land are permitted in any land use district (unless restricted to particular land use districts herein), subject to the specific regulations and time limits which follow and to the other applicable regulations of the district in which the use is permitted:
  - (1) A temporary building or yard for construction materials and equipment, both incidental and necessary to construction in any land use district, for a period not to exceed twelve (12) months.
  - (2) A model home or model apartment, both incidental and necessary for the sale, rental or lease of real property in any land use district, for a period not to exceed twelve (12) months.
  - (3) A mobile home located as a field office for any construction project in any land use district for a period not to exceed twelve (12) months.
  - (4) Christmas tree sales shall be allowed in all land use districts, except in residential districts on lots of one (1) acre or less, for a period not to exceed sixty (60) days. Display of Christmas trees

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need not comply with the setback requirements of this Chapter, provided that no tree shall be displayed within thirty (30) feet of the intersection of the right-of-way line of any two (2) streets.

- (5) Sale of seasonal fruits and vegetables from roadside stands in an AG Agricultural, C Commercial, CC Core Commercial, EP Environmental Preservation or RE Residential Estate land use district, for a period not to exceed one hundred twenty (120) days.
  - (6) Sale of fireworks from roadside stands in any nonresidential land use district for a period not to exceed thirty (30) consecutive days prior to July 4th of each year, provided that any permits required by law are obtained.
  - (7) Auctions, flea markets, carnivals, circuses, bazaars and other amusement activities in a commercial land use district, for a period not to exceed ten (10) days no more than twice in any calendar year, provided that any permits required by law are obtained.
  - (8) A parking lot designated for a special event in a commercial land use district, for a period not to exceed ten (10) days.
  - (9) Off-site sales and "tent sales" in a commercial land use district, for a period not to exceed seventy-two (72) hours.
  - (10) Garage sales are allowed without a temporary use permit in any residential district, provided that there are not more than three (3) such sales annually of more than three (3) days duration each on the premises.
- (b) An extension of time for a temporary use may be approved by the Director, with no more than two (2) extensions permitted.
  - (c) Upon the cessation of a temporary use or the end of the season for which the use was established, all structures, buildings or debris associated with said temporary use shall be removed from the site.

(Ord. 789-08 §1)

**Sec. 16-6-50. Determination of land uses not listed.**

The Director shall have the authority to determine whether a particular use falls within the use categories provided by the District Use Table set forth in Section 16-6-60 below. Any use that does not fall within any of the use categories provided by the table is neither permitted by right nor permitted by approval as a special use. Any person aggrieved by a decision of the Director pursuant to this Section may appeal that decision to the Board of Adjustment in accordance with Subsection 16-2-40(h) of this Chapter.

(Ord. 789-08 §1)

**Sec. 16-6-60. District Use Table (permitted and special uses).**

Table 6-1 lists all permitted and special uses by land use district. Accessory uses and temporary uses are listed in Sections 16-6-30 and 16-6-40 above, respectively.

TABLE 6-1  
District Uses

R = Permitted Use S = Special Use
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	AG	EP	RE	R-LD	R-MD	R-MHD	R-MH	C	CC	I
Agricultural Uses										
Agricultural equipment, sales and service								R	S	R
Animal breeding facility	S									S
Auction arena or livestock sales	S									S
Augmentation pond	S	S								
Farming, ranching and crop production	R	R								
Grain drying and feed manufacturing	S									S
Nursery or greenhouse	R	S						S		S
Riding stables or academy	R	S								
Slaughtering, butchering or rendering plant										S
Educational Uses										
Child care center	S		S	S	S	S	S	R	S	
Large family day care home	R		R	R	R	R	S	S	S	
School, private	S		S	S	S	S	S		S	
School, public	R		R	R	R	R	R		R	
School, vocational or technical	S									S
Entertainment Uses (See Article 7 of this Chapter for Adult Business Regulations)										
Adult business										S



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Bar or lounge									R	R	S
Bowling alley									R	R	
Golf course or driving range	S	S	S	S	S	S	S				
Miniature golf									S		
Movie theater									R	R	
Movie theater, drive-in									S		S
Outdoor recreation	S								R		
Radio or TV studio									R	R	S
Restaurant									R	R	S
Restaurant, drive-in/drive-through									S	S	S
Shooting range	S										S
Industrial Uses (See Article 7 for Industrial Performance Standards)											
Asphalt or concrete batching plant	S								S		S
Enclosed storage or warehousing materials (other than explosives, flammables or chemicals)											R
Enclosed storage or warehousing materials (explosives, flammables or chemicals)											S
Extractive industry, including mining, oil and gas drilling, sand and gravel	S	S									S
Landfill or solid waste transfer station											S
Manufacturing (other than explosives, flammables, chemicals,											R

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toxic or hazardous materials)										
Mini-storage warehouse								S		S
Outdoor storage								S		S
Petroleum refining										S
Research laboratory										R
Salvage or junk yard										S
Institutional Uses										
Cemetery	R		R	R	R	R	R			
Church or religious institution	R		R	R	R	R	R	R	R	R
Club or lodge	S		S					R	S	
Correctional facility										S
Fairground	R									
Fire or police station	R		R	S	S			S		R
Government office								R	R	
Hospital or sanitarium					R			R		
Library or museum			R	R	R	R	R	S	R	
Park or public recreation	R	R	R	R	R	R	R	R	R	R
Residential Uses (See Article 7 of this Chapter for Bed and Breakfast Establishments, Home Occupations and Home Businesses, and Mobile Home, Mobile Home Park, Recreational Vehicle Park, Trailer Park and Campground Regulations)										

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Bed and breakfast			S	S	S	S			S	
Campground	S	S								
Dwelling unit on second floor above retail or office use									R	
Dwelling unit on main floor of one-story building behind retail or office use (located to the rear of the ground floor occupying no more than ½ of the available ground level square footage and secondary to the primary commercial use)									R	
Group home	R		R	R	R	R	R			
Home business	S		S	S	S			S	S	
Home occupation	R		R	R	R			R	R	
Manufactured home	R		R	R	R	R				
Mobile home park							R			
Multi-family dwelling					R	R		S	S	
Nursing home or assisted living	S		R	R	R	R				
Single-family dwelling	R		R	R	R	R		S	S	
Two-family dwelling				S	R	R		S		
Hotel and motel								R	R	
Rooming house					S	R		S	S	
RV park	S						R			
Retail Uses										
Auto sales								R	S	R

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Building materials supply								S		R
Mobile home sales								S		R
Pawn shop								S	S	
Retail business, < 10,000 sq. ft.								R	R	
Retail business, > 10,000 < 25,000 sq. ft.								R	S	
Retail business, > 25,000 sq. ft.								S		
Services										
Animal clinic or hospital	S		S					S		
Auto wash								R	R	R
Bank or financial institution								R	R	
Bank or financial institution, drive-in								R	S	
Equipment rental								R	R	R
Dry cleaning								R	R	S
Furniture and appliance repair								R	R	R
Kennel	S		S					S	S	S
Laundromat					S	S	S	R	R	
Medical or dental clinic				S	S	S	S	R	R	
Mortuary					S	S		S	S	
Personal service, < 10,000 sq. ft.								R	R	

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Personal service, 10,000—25,000 sq. ft.									R	S	
Personal service, > 25,000 sq. ft.									S		
Professional office						S			R	R	
Service station or minor vehicle repair									R	R	R
Vehicle repair (major)									R	S	R
Transportation Uses											
Airport or heliport	S										S
Bus or train station									R	R	S
Freight terminal											S
Parking lot									R	S	R
Rail yard											R
Utilities (See Article 7 of this Chapter for Commercial Mobile Radio Systems [CMRS] and Wind Energy Conversion Systems [WECS])											
CMRS or WECS tower	S	S	S	S	S	S	S	S	S	S	S
Gas or electric transmission line	S	S	S	S	S	S	S	S	S	S	S
Municipal water or sewer facility	R	R	R	R	R	R	R	R	R	R	R
Power plant											S
Utility substation	S	S	S	S	S	S	S	S	S	S	S

(Ord. 789-08 §1; Ord. 827-14 §3)

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**ARTICLE 7 Supplementary Use Standards**

[Sec. 16-7-10. Adult businesses.](#)

[Sec. 16-7-20. Bed and breakfast establishments.](#)

[Sec. 16-7-30. Commercial Mobile Radio Systems \(CMRS\).](#)

[Sec. 16-7-40. Home occupations and home businesses.](#)

[Sec. 16-7-50. Industrial performance.](#)

[Sec. 16-7-60. Mobile homes, mobile home parks, recreational vehicle parks and campgrounds.](#)

[Sec. 16-7-70. Mobile home parks; standards.](#)

[Sec. 16-7-80. Wind Energy Conversion Systems \(WECS\).](#)

[Sec. 16-7-90. Augmentation ponds.](#)

**Sec. 16-7-10. Adult businesses.**

Adult businesses may be located within the City according to the District Use Table set forth in Article 6 of this Chapter and in accordance with the requirements of this Section. No adult business may be located within three thousand (3,000) feet of any school, church or public park, measured as the shortest distance from the nearest exterior wall of the building in which the adult business is located to the nearest property line of the parcel on which the school, church or public park is located.

(Ord. 789-08 §1)

**Sec. 16-7-20. Bed and breakfast establishments.**

- (a) Bed and breakfast establishments are a special use within any residential land use district. A bed and breakfast use shall remain incidental to the primary residential use of the property to allow reconversion back to a single-family residential use.
- (b) No bed and breakfast establishment may be located within three hundred (300) feet of any other bed and breakfast establishment. The three-hundred-foot distance shall be measured in a straight line connecting the closest points on the lot lines and without regard for intervening structures.
- (c) Bed and breakfast establishments shall be allowed only in residential structures which are recognized as architecturally, historically or culturally significant and which, through renovation and use as a bed and breakfast establishment, will contribute significantly to the ambiance, character or economic revitalization of a neighborhood.
- (d) The exterior appearance of the bed and breakfast structure shall not be altered from its single-family character, and no exterior alterations other than those necessary to ensure the safety of the structure shall be made to any building for the purpose of providing a bed and breakfast establishment. Minimal outward modification of a bed and breakfast structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the land use district in which it is located.
- (e) There must be at least five hundred (500) square feet of gross floor area for each rental unit. The potential rental units shall be determined by dividing the gross floor area of the structure by five hundred (500) square feet. A maximum of five (5) bedrooms shall be available for rent. A bed and

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breakfast establishment having more than five (5) bedrooms for rent may be approved if the bed and breakfast establishment is designated as a historic landmark and meets the square footage limitation of this Subsection.

- (f) Any interior modification shall be described in the application and shall not be injurious to the historic character of the structure, woodwork, stairways, fireplaces, windows and doors, cornices, festoons, moldings, chair rails or light fixtures. Rooms used for sleeping shall be a part of the primary residential structure and shall not have been specifically constructed or remodeled for rental purposes. The architectural integrity and arrangement of the existing interior spaces shall be maintained, except as may be required to meet health, safety and sanitation requirements.
- (g) Only short-term lodging may be provided by a bed and breakfast establishment. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days. Monthly rentals shall be prohibited.
- (h) Food service shall be limited to breakfast served to guests taking lodging in the bed and breakfast establishment. No food preparation or cooking for guests shall be conducted within any bedroom made available for rent. Individual rooms that are rented shall not contain cooking facilities.
- (i) The owner or lessee of the property shall operate the bed and breakfast establishment and reside in the home.
- (j) Off-street parking for a bed and breakfast establishment shall include one (1) off-street parking space for every guest room, in addition to the parking required for a single-family dwelling (see Article 5 of this Chapter).
- (k) Signage for a bed and breakfast establishment shall be limited to one (1) sign not to exceed three (3) square feet of sign area.
- (l) The use of a property as a bed and breakfast establishment shall not create noise, light or traffic conditions detrimental to the neighboring residents, and no receptions, private parties or activities for which a fee is paid shall be permitted.
- (m) Any license required for a bed and breakfast establishment shall be obtained as required by law.

(Ord. 789-08 §1)

**Sec. 16-7-30. Commercial Mobile Radio Systems (CMRS).**

- (a) All proposed CMRS facilities shall be reviewed pursuant to the following procedures:
  - (1) Building- or structure-mounted CMRS facilities shall be reviewed by the Director for compliance with the requirements of this Article.
  - (2) Roof-mounted and freestanding CMRS facilities must receive approval as a special use.
- (b) No more than one (1) roof-mounted or freestanding CMRS facility may be constructed or maintained upon a property in single ownership; provided, however, that additional CMRS facilities may be approved at the same location as a special use, provided that all other requirements of this Section are met.
- (c) Building- or structure-mounted CMRS facilities shall be subject to the following requirements:
  - (1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.
  - (2) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet. In no case shall such facilities extend into the public right-of-way.

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- (3) Building- or structure-mounted whip antennas shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.
- (d) Roof-mounted CMRS facilities shall be subject to the following requirements:
  - (1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.
  - (2) Roof-mounted CMRS whip antennas shall extend no more than ten (10) feet above the parapet of any flat roof or ridge of a sloped roof to which they are attached.
  - (3) Roof-mounted CMRS panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted.
  - (4) Roof-mounted CMRS accessory structures shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
- (e) Freestanding CMRS facilities shall be visually screened from adjacent residential development and public rights-of-way as follows:
  - (1) All accessory structures and equipment cabinets shall be totally screened from view from adjacent property lines.
  - (2) Screening, landscaping and/or exterior building finishes and colors shall be compatible with the existing character of the site and adjacent properties and shall be determined as part of the special use review process.
- (f) Standards for approval of a freestanding CMRS facility:
  - (1) Existing or approved towers cannot accommodate the telecommunications equipment planned for the proposed tower.
  - (2) The proposed tower shall not constitute a hazard to aircraft.
  - (3) The proposed tower shall be placed on the property to contain on site all ice-fall or debris from tower failure.
  - (4) The proposed tower shall provide for shared capacity if technically practicable.
  - (5) The proposed tower shall incorporate the least practicable adverse visual impact on the environment.
  - (6) The proposed tower shall not emit radiation that will adversely affect human health.
  - (7) The proposed tower shall be the minimum height needed to accommodate the antenna.
  - (8) The proposed tower shall comply with all applicable federal and state regulations.
  - (9) The design of the proposed tower shall ensure structural integrity. The proposed tower shall have adequate measures to discourage unauthorized climbing and to ensure the security thereof.
  - (10) All reasonably possible sites for the proposed tower have been considered, and the proposed site is the most appropriate, available site from a land use perspective.
- (g) The construction and use of a CMRS facility shall not cause interference to other adjacent CMRS facilities.
- (h) CMRS facilities which are abandoned by disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the CMRS facility owner within thirty (30) days of the expiration of such time limit.

(Ord. 789-08 §1)



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**Sec. 16-7-40. Home occupations and home businesses.**

- (a) Home occupations may be permitted in all residential districts as a permitted use, subject to the following additional requirements:
- (1) A home occupation shall be conducted entirely within the dwelling or accessory structure located on the same lot in which the operator resides as his or her legal and primary place of residence.
  - (2) A home occupation shall not alter the interior or exterior residential character of the dwelling unit. Structural additions, enlargements or alterations changing the residential appearance to be a business appearance shall not be permitted.
  - (3) A home occupation shall not occupy more than a cumulative total of twenty-five percent (25%) of the total finished floor area of any dwelling unit in which the home occupation is located.
  - (4) A home occupation shall not employ anyone on site other than the operator or a member of the operator's immediate family residing on the premises.
  - (5) No article shall be sold or offered for sale except such as may be produced by the operator or a member of the operator's immediate family residing on the premises.
  - (6) A home occupation shall not generate noise, vibration, glare, fumes or odors beyond what normally occurs in any residential land use district.
  - (7) A home occupation shall not use any mechanical equipment except as is permissible for purely domestic or household purposes. No electrical or mechanical equipment shall interfere with local radio communications and television reception or cause fluctuation in line voltage off the premises.
  - (8) A home occupation shall not store or sell any commodity other than those prepared, produced or created on the premises by the operator of the home occupation.
  - (9) A home occupation shall not include any outdoor storage of goods, products, equipment or other materials associated with the business activity.
  - (10) A home occupation shall not generate vehicular traffic in excess of that typically generated by residential dwellings.
  - (11) No addition of parking spaces to accommodate the home occupation or parking of commercial vehicles shall be permitted.
  - (12) No part of a minimum required yard shall be used for off-street parking or loading facilities, and no additional driveway to serve a home occupation shall be permitted.
  - (13) Notwithstanding any limitation above, a small family day care home, as defined in Article 14 of this Chapter, is expressly allowed as a home occupation.
  - (14) The following uses shall be specifically prohibited as a home occupation: motor vehicle repair or service, machine shop, welding shop, escort service, furniture refinishing or upholstery, sign making and special trade contractors who are engaged in metal working or cabinetmaking.
- (b) Home businesses may be permitted in all residential districts as a special use, subject to the following additional requirements:
- (1) A home business shall be conducted entirely within the dwelling or accessory structure located on the same lot in which the operator resides as his or her legal and primary place of residence.
  - (2) A home business shall not alter the interior or exterior residential character of the dwelling unit. Structural additions, enlargements or alterations changing the residential appearance to be a business appearance shall not be permitted.

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- (3) A home business shall not occupy more than a cumulative total of twenty-five percent (25%) of the total finished floor area of any dwelling unit in which the home business is located.
- (4) A home business may be permitted up to two (2) additional employees on-site other than the operator or a member of the operator's immediate family residing on the premises.
- (5) A home business shall not generate noise, vibration, glare, fumes or odors beyond what normally occurs in any residential land use district.
- (6) A home business shall not use any mechanical equipment that interferes with local radio communications and television reception or causes fluctuation in line voltage off the premises.
- (7) A home business shall not include any outdoor storage of goods, products, equipment or other materials associated with the business activity.
- (8) A home business may be permitted one (1) additional parking space to accommodate the home business or the parking of commercial vehicles on the site.

(Ord. 789-08 §1)

**Sec. 16-7-50. Industrial performance.**

- (a) Any permitted or special use established or placed into operation within any land use district shall comply with the minimum industrial performance standards specified herein, in addition to other standards as may be required by this Chapter or other codes or laws for individual uses.
- (b) Fire-fighting equipment and/or fire prevention measures acceptable to the Fire Department shall be required when any activity involving the handling or storage of flammable or explosive materials is conducted.
- (c) No use shall cause electrical disturbance adversely affecting radios, televisions or other electronic communication equipment in the vicinity.
- (d) No use shall cause vibrations or concussions detectable beyond property lot lines.
- (e) No use shall emit across property lot lines malodorous gas or matter in such quantity as to be readily detectable at any point along the property lot lines.
- (f) No use shall discharge across property lot lines fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or conflict with public air quality standards.
- (g) No use shall produce heat or glare in such a manner as to be a nuisance or create a hazard perceptible from any point beyond property lot lines.
- (h) No use shall produce erosion or pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards.
- (i) No use shall amass within the lot or discharge beyond property lot lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety and welfare standards and regulations.
- (j) In the interest of public welfare, hours of operation for any use may be restricted by the City Council.

(Ord. 789-08 §1)

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**Sec. 16-7-60. Mobile homes, mobile home parks, recreational vehicle parks and campgrounds.**

- (a) Mobile home parks, recreational vehicle parks and campgrounds, as those terms are defined by Article 14 of this Chapter, may be located within the City according to the District Use Table set forth in Article 6 of this Chapter and in accordance with the requirements of this Section. Except as otherwise provided in this Code, no mobile home, recreational vehicle or trailer shall be parked anywhere within the City.
- (b) Any mobile home placed or relocated within the City after December 1, 2008, must be HUD-approved (post-1976) and meet all other applicable building requirements of the City. The new location of any non-HUD-approved mobile home within the City is prohibited.
- (c) It is unlawful for any person to construct, operate, maintain or permit the construction, operation or maintenance of a mobile home park or recreational vehicle park within the City without first obtaining an annual operating permit therefor in accordance with this Section.
  - (1) Application for a mobile home park or recreational vehicle park must be made to the Director on forms available from the Director's office. The application must be accompanied by a site plan, to be processed in accordance with the Review Process Chart set forth in Section 16-3-20 of this Chapter and the Public Notice Requirement Chart set forth in Section 16-3-30 of this Chapter. All applications, including renewals, shall be subject to those fees as set forth in the Fee Schedule located at Appendix 16-C.
  - (2) The Director shall consider and approve or disapprove any park permit application submitted pursuant to this Section. If the Director finds that all requirements of this Chapter and all other applicable land use and building regulations will be met by the proposed park, the Director shall issue a permit. Issuance of a permit does not constitute approval of the site plan for a proposed park. An applicant must obtain both a permit and site plan approval prior to constructing, operating or maintaining a park covered by this Section.
  - (3) No permit for any of the parks addressed by this Section shall be issued unless a certificate is presented showing all property taxes, real and personal, and all special assessments concerning the proposed park property have been paid to date.
  - (4) All annual permits issued pursuant to this Section shall expire on April 30th. Application for permit renewal must be made to the City Clerk no later than April 1st. Failure to timely reapply shall constitute grounds for denial of a renewal application. The Director may waive the renewal application deadline for good cause shown.
  - (5) Permits issued pursuant to this Section shall not be transferable or assignable by the permit holder.
  - (6) Should an authorized City official determine that any person holding a permit under this Section has violated any of the provisions or requirements of this Section, a written notice shall be served upon such permit holder in person or by certified mail specifying the alleged violation and requiring him or her to appear before the City Council at a time specified therein, not less than ten (10) days after such service. At the specified time and place, the City Council shall conduct a hearing on whether the permit should be suspended or revoked. The City Council shall issue a finding of whether or not a violation of this Section has occurred after hearing such evidence and testimony that the City and/or the permit holder wish to present. Following such finding, the City Council shall order suspension, revocation or no action. The City Council shall issue a written decision within five (5) business days of completion of the hearing. The decision shall be served on the permit holder in the same manner as the notice of hearing may be served.
- (d) Campgrounds.

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- (1) It is unlawful for any person to occupy space in a campground for longer than seven (7) consecutive days. A person shall be deemed to have occupied space within the campground for one (1) full day if he or she has occupied space in the campground for any part of a day. However, for a break in the consecutive occupation of space to occur for purposes of this Paragraph, a person must have removed himself or herself and his or her tent, trailer or other shelter or accommodations from the campground for one (1) full day.
- (2) All campgrounds shall be divided into spaces which shall be appropriately marked and readily apparent. All vehicles, travel trailers and tents shall be placed or parked in such spaces and in no other place in the campground.
- (3) It is unlawful for any person to litter within any public campground. It is unlawful for any person to build or maintain any fires on any campground except in places specifically provided therefor.

(Ord. 789-08 §1)

**Sec. 16-7-70. Mobile home parks; standards.**

- (a) Mobile home parks are a permitted use within the R-MH Residential Mobile Home land use district.
- (b) All state requirements for mobile home parks shall be observed.
- (c) The sale of individual lots to individual lot owners may be allowed in a mobile home park. If such sale of lots is intended, an application for a preliminary and/or final plat shall be submitted in accordance with Article 9 of this Chapter. Sale of an individual lot within a mobile home park is prohibited until the lot is part of a City-approved and recorded subdivision plat.
- (d) A mobile home park shall be subject to the following standards:
  - (1) A mobile home park shall have an area of not less than five (5) acres.
  - (2) A mobile home park shall provide a recreational area or areas equal in size to at least eight percent (8%) of the area of the mobile home park site. Streets, parking areas and park service facility areas shall not be included in the required recreational area.
  - (3) A mobile home park site shall have two (2) side yards, each having a minimum of thirty (30) feet in width, a rear yard having a minimum of thirty (30) feet in depth and a front yard having a minimum of sixty (60) feet in depth.
  - (4) A dense planting screen not less than twelve (12) feet high and six (6) feet wide shall be located and effectively maintained at all times along all mobile home park boundary lines except at established entrances and exits serving the mobile home park.
    - a. A basket weave or similar type fence or brick or stone wall may be permitted by the Director instead of a planting screen.
    - b. The Director may waive any part of these screening requirements temporarily or permanently if adequate screening already exists or if the topography or other conditions so warrant.
  - (5) A mobile home park shall be provided with safe and convenient vehicular access from abutting streets to each mobile home lot. Such access shall be provided by interior private streets, minor driveways or other means approved by the Director.
    - a. No direct access from a front or side street to a mobile home lot shall be permitted except by approved entrances and exits.
    - b. The park entrance shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be allowed on the park entrance

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- driveway for a distance of one hundred (100) feet from its point of beginning, unless the park entrance drive has a minimum width of thirty-six (36) feet.
- c. Interior private streets in a mobile home park shall have a minimum width of twenty-two (22) feet, measured from pavement edge to edge.
  - d. Dead-end private streets shall not exceed nine hundred (900) feet in length and shall be terminated at the closed end with a turnaround having an outside roadway diameter of at least sixty (60) feet.
  - e. Minor driveways shall have a minimum width of ten (10) feet. Minor driveways having mobile homes abutting on both sides are not acceptable unless the minor driveway is less than five hundred (500) feet long. Minor driveways serving more than fifteen (15) mobile homes are unacceptable.
  - f. All private streets and minor driveways shall be provided with a smooth, hard and dense surface which shall be durable and well-drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Driveway surfaces shall be maintained so as to be free of cracks, holes and other hazards.
  - g. Grades of all private streets and minor driveways shall be sufficient to ensure adequate surface drainage, but shall not have a grade in excess of eight percent (8%); provided, however, that short runs having a maximum grade of twelve percent (12%) may be permitted if traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.
  - h. Within one hundred (100) feet of an intersection of two (2) streets or of a street and a driveway, private streets and minor driveways shall be at approximately right angles. A distance of at least one hundred fifty (150) feet shall be maintained between centerlines of offset intersecting streets. Intersections of more than two (2) streets at one (1) point shall be avoided.
  - i. Where common utilities are to be located within or underneath a street or driveway, an easement shall be dedicated as required by the City and to the specifications set forth in Section 16-10-40 of this Chapter.
- (6) The condition of the soil and groundwater level of a mobile home park site shall meet the criteria promulgated by the United States Department of Agriculture Soil Conservation Service.
- a. A mobile home park site shall not be subject to unpredictable or sudden flooding, subsidence or erosion.
  - b. Exposed ground surfaces shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
  - c. Exposed ground surfaces shall be graded and equipped to drain all surface water in a safe, efficient manner.
- (e) Lots or spaces within a mobile home park shall be subject to the R-MH district standards listed in Table 5.1, Article 5 of this Chapter and the following:
- (1) Each mobile home lot within a mobile home park shall be at least forty (40) feet in width.
  - (2) Each mobile home lot within a mobile home park shall contain a mobile home slab designed in accordance with current City building codes.
  - (3) Each mobile home lot shall contain two (2) automobile parking spaces, each of which has a minimum dimension of nine (9) feet in width by eighteen (18) feet in length.

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- (4) Mobile homes within a mobile home park shall be separated from each other and from all other buildings and structures by at least twenty (20) feet.
- (5) An accessory structure, such as an awning, cabana, storage cabinets, deck, carport, windbreak, porch or pergola having a floor area exceeding twenty-five (25) square feet and an opaque roof or top, shall be considered to be part of the mobile home.

(Ord. 789-08 §1)

**Sec. 16-7-80. Wind Energy Conversion Systems (WECS).**

- (a) All proposed WECS facilities shall be reviewed pursuant to the following procedures:
  - (1) Building- or structure-mounted WECS facilities shall be reviewed by the Director for compliance with the requirements of this Article.
  - (2) Freestanding WECS facilities must receive approval as a special use in all land use districts.
- (b) No more than one (1) building- or structure-mounted or freestanding WECS facility may be constructed or maintained upon a property in single ownership.
- (c) Building- or structure-mounted WECS facilities shall be subject to the following requirements:
  - (1) Such facilities shall be compatible with and colored to match the building or structure to which they are attached.
  - (2) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet. In no case shall such facilities extend into the public right-of-way.
  - (3) Building- or structure-mounted WECS facilities shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.
- (d) Standards for approval of a freestanding WECS facility:
  - (1) The tower shall not constitute a hazard to aircraft.
  - (2) The tower shall be placed on the property to contain on site all ice-fall or debris from tower failure.
  - (3) The proposed tower shall provide for shared capacity if technically practicable.
  - (4) The tower shall have the least practicable adverse visual impact on the environment. Screening, landscaping and/or exterior building finishes and colors shall be compatible with the existing character of the site and adjacent properties.
  - (5) The proposed tower shall be the minimum height needed. No WECS facility shall exceed the height limit applicable to the underlying land use district in which such facility is located.
  - (6) The proposed tower shall comply with all applicable federal and state regulations.
  - (7) The design of the proposed tower shall ensure structural integrity. The proposed tower shall have adequate measures to discourage unauthorized climbing and to ensure the security thereof.
  - (8) All reasonably possible sites for the tower have been considered, and the proposed site is the most appropriate, available site from a land use perspective.
- (e) The construction and use of a WECS facility shall not cause interference to other adjacent WECS facilities.
- (f) WECS facilities which are abandoned for greater than six (6) months shall be removed by the WECS facility owner within thirty (30) days of the expiration of such time limit.

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(Ord. 789-08 §1)

**Sec. 16-7-90. Augmentation ponds.**

- (a) Augmentation ponds are a special use within the Agricultural and Environmental Preservation land use districts.
- (b) An augmentation pond shall be designed, constructed, operated and maintained in compliance with a court-approved augmentation plan and all requirements of the Colorado Division of Water Resources.
- (c) An augmentation pond shall be designed, constructed, operated and maintained in compliance with all State and Federal environmental laws and requirements, including but not limited to water quality and dust control.
- (d) An augmentation pond or site may be used for multiple public purposes, including but not limited to storm water drainage, parks, trails, open space and recreation, upon approval of the City Administrator and subject to negotiation of a development agreement.
- (e) An augmentation pond shall also be subject to the following standards:
  - (1) An augmentation pond shall be located on a parcel of land not less than five (5) acres in size.
  - (2) An augmentation pond shall be setback a minimum of thirty (30) feet from the front property line, and twenty-five (25) feet from any other property line, as measured from the top of slope for the pond to the property line.
  - (3) An unobstructed road easement of a least twenty (20) feet in width shall be provided to access an augmentation pond for operation and maintenance services. A minimum sixteen (16) foot wide, all-weather surface roadway shall be constructed within the road easement.
  - (4) An augmentation pond with banks that slope greater than 4:1 shall be completely enclosed by a six (6) foot high chain link fence that is secured by a locked twenty (20) foot wide swinging gate located across the access road.
  - (5) A landscape and maintenance plan for the augmentation pond site shall be prepared by a landscape architect or other professional experienced in landscape design and the installation and care of plant materials. The augmentation pond site shall be designed and landscaped in such a manner as to blend with the property and adjacent areas. Where determined appropriate to screen or buffer adjacent uses, a landscaped berm shall be installed. Landscaping shall consist of a mixture of native trees, shrubs and materials, with all cut and fill slopes hydro seeded.
  - (6) An unobstructed trail easement of at least ten (10) feet in width shall be provided where required as part of a development agreement. A minimum eight (8) foot wide, all-weather surface trail shall be constructed within the trail easement. The landscape plan required in paragraph (5) above shall provide for the design and construction of trails on the site.
  - (f) A professional engineer registered in the State of Colorado shall prepare and certify the design and construction plans for an augmentation pond site, to include without limitation the avoidance of high groundwater at the site and its vicinity as a result of its construction and operation.
- (g) An augmentation pond site shall be maintained in compliance with all municipal codes, including but not limited to Section 7-2-40, Stagnant ponds; Section 7-3-10, Accumulations of waste; nuisance; Section 7-3-20, Accumulation and deposit of waste prohibited; Section 7-5-10, Growth and accumulation of weeds prohibited; and Section 7-5-20, Declaration of nuisance.

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- (h) An augmentation pond shall be maintained in such a manner as to prevent the breeding of mosquitoes. Where there is evidence of mosquito breeding, effective methods of eliminating and treating mosquito breeding sources shall be instigated within forty-eight (48) hours after discovering or being informed of the evidence of mosquito breeding.
- (i) Upon approval of a Special Use Permit for an augmentation pond, the Applicant shall assume all responsibility and liability for its design, construction, operation, maintenance, and safety, to include without limitation Applicant's indemnification of the City for all such activity.

(Ord. 827-14 § 4)

**ARTICLE 8 Planned Unit Development**

[Sec. 16-8-10. Purpose.](#)

[Sec. 16-8-20. Development standards.](#)

[Sec. 16-8-30. Procedures.](#)

[Sec. 16-8-40. Designation.](#)

[Sec. 16-8-50. Enforcement.](#)

**Sec. 16-8-10. Purpose.**

The purposes of this Article are as follows:

- (1) To encourage creativity and innovation in the design of developments;
- (2) To encourage imaginative uses of open space and special consideration of property with outstanding natural or topographical features;
- (3) To encourage a diversity of housing types while maintaining high quality living environments;
- (4) To provide a mix of retail, office, employment, civic and recreation uses conveniently located to housing;
- (5) To provide for more efficient use of land, including the reduction of land area disturbed for utility lines and motor vehicle access;
- (6) To facilitate the use of the most appropriate design and construction techniques in the development of land;
- (7) To provide flexibility in land use regulations by allowing for the consolidation of the platting and rezoning procedures;
- (8) To permit a developer to propose a total development plan which can be considered as to its overall merits under a unified procedure; and
- (9) To further the purposes of the Comprehensive Plan.

(Ord. 789-08 §1)



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**Sec. 16-8-20. Development standards.**

- (a) A Planned Unit Development (PUD) may be proposed on any size lot or parcel of land, subject to the procedures herein and in Article 9 of this Chapter.
- (b) The PUD shall be designed in such a manner that, wherever possible, it protects the environmental assets of the area, including considerations of elements such as plants and wildlife, streams and storm drainage courses and scenic vistas.
- (c) The PUD shall take into account characteristics of soils, slopes and potential geological hazards in a manner intended to protect the health, safety and welfare of potential users of the PUD.
- (d) A minimum of twenty-five percent (25%) of the total PUD area shall be devoted to open-air recreation or other useable open space (public or quasi-public).
- (e) Planned open spaces within the PUD, including those spaces being used as public or private recreation sites, shall be protected by adequate covenants running with the land or by conveyances or dedications.
- (f) The PUD shall include adequate, safe and convenient arrangements for pedestrian circulation, roadways, driveways, off-street parking and loading spaces.
- (g) The PUD shall have an adequate internal street circulation system. Private roads may be permitted if they meet City design and construction standards.
- (h) The PUD shall have an adequate drainage system designed by a professional engineer registered in Colorado.
- (i) Off-street parking spaces shall be provided based upon the following considerations:
  - (1) The parking needs of all proposed uses within the PUD;
  - (2) Trade-off or alternating use of parking areas by uses occurring during different hours, seasons or days; and
  - (3) Landscaping and screening treatments.
- (j) There shall be no minimum lot width, setbacks or lot area requirements in a PUD. Setbacks and lot widths shall be established that provide adequate access and fire protection and shall ensure proper ventilation, light, air and snow melt between buildings based on the nature of the proposed land uses.
- (k) The maximum height of buildings shall be in relation to the following characteristics of the proposed building:
  - (1) Its geographical location;
  - (2) The probable effect on surrounding slopes;
  - (3) Adverse visual effects to adjacent sites;
  - (4) Potential problems for adjacent sites caused by shadows, loss of air circulation or closing of view; and
  - (5) Influence on the general vicinity, with regard to extreme contrast, vistas and open space, uses within the proposed building and fire prevention measures.
- (l) The PUD's relationship to its surroundings shall be considered in order to avoid adverse effects to the development caused by traffic circulation, building height or bulk, lack of screening or intrusions on privacy.

(Ord. 789-08 §1)

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**Sec. 16-8-30. Procedures.**

- (a) Submittal requirements. A PUD application shall serve as a concurrent application to zone (or rezone) the subject property and, if requested, to subdivide or plat the property. As such, a PUD application shall include the submittal requirements applicable to zone or rezone (Article 4 of this Chapter) and to subdivide (Article 9 of this Chapter) the subject property. Although an application under this Article must obtain only one (1) form of City approval (PUD), all applicable subdivision standards (Article 9 of this Chapter), land use standards (Article 4 of this Chapter) and dedication and performance guarantee requirements (Article 11 of this Chapter) must be met.
- (b) Procedure. PUD applications shall be processed in accordance with the Review Process Chart set forth in Section 16-3-20 of this Chapter and the Public Notice Requirement Chart set forth in Section 16-3-30 of this Chapter. All PUD applications shall be subject to those fees as set forth in the Fee Schedule located at Appendix 16-C.
- (c) Amendments. The final development plan approved by the City Council shall be binding and shall not be modified during the construction of the PUD except upon application to the City under the following procedures:
  - (1) Minor changes in location, orientation, bulk of structures, height or character of a building may be authorized by the Planning Commission at a public meeting without a public hearing if required by circumstances not reasonably foreseen at the time of final plan approval. The Director shall make all initial determinations of whether a proposed change is minor, for purposes of this Paragraph. The Director's determination may be appealed to the Board of Adjustment in accordance with Subsection 16-2-40(h).
  - (2) All other changes must be approved by the City Council under the same manner and process by which the original PUD was approved.

(Ord. 789-08 §1)

**Sec. 16-8-40. Designation.**

Upon approval of a PUD, the subject area shall be designated and shown on the official land use map of the City as a PUD district. The ordinance approving the land use change containing the legal description shall be recorded with the County Clerk and Recorder to provide notice that the land is subject to PUD regulations.

(Ord. 789-08 §1)

**Sec. 16-8-50. Enforcement.**

- (a) The provisions of an approved PUD concerning the use of land and the location of common open space shall run in favor of the City and shall be enforceable in law or in equity by the City without limitation on any powers or regulation otherwise granted by law, including the enforcement mechanisms authorized by Section 16-2-40 of this Chapter.
- (b) All other provisions of an approved PUD shall run in favor of the residents, occupants and owners of the lots in the PUD to the extent expressly provided in the plan and in accordance with the terms of the plan. Such provisions may be enforced at law or in equity by such persons.

(Ord. 789-08 §1)

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**ARTICLE 9 Land Subdivision**

[Sec. 16-9-10. Major subdivision.](#)

[Sec. 16-9-20. Minor subdivision.](#)

[Sec. 16-9-30. Plat correction; amendment.](#)

[Sec. 16-9-40. Exemptions.](#)

[Sec. 16-9-50. Waivers.](#)

**Sec. 16-9-10. Major subdivision.**

(a) General provisions.

- (1) A subdivision application shall be classified as a major subdivision application and governed by this Section when the application proposes to create four (4) or more new lots, parcels, tracts, spaces or interests, or less than four (4) new lots, parcels, tracts, spaces or interests when public infrastructure is proposed or required by this Chapter to be constructed in association with the subdivision.
- (2) For purposes of this Subsection, public infrastructure includes water and sewer lines and stubs, drainage facilities, electrical facilities, lines and facilities, whether above or below ground, for telephone, television, internet or any other type or form of data transfer, curb and gutter, sidewalks, common access areas, such as shared driveways, and any other type of facility deemed by the Director to be reasonably necessary to support the residents, users or owners of the subject lots.
- (3) The major subdivision process shall consist of three (3) separate phases unless otherwise provided herein, as provided in Subsections (b), (c) and (d) below.
- (4) The approval of a sketch plan or preliminary plat shall expire after twelve (12) months unless otherwise specifically provided at the time of sketch plan or preliminary plat approval for those subdivisions designed and intended to be completed in phases; it being the intent of the City that an approved sketch plan and preliminary plan ultimately and timely lead to the City's consideration of a final plat. Approval of a final plat shall expire after twenty-four (24) months unless otherwise specifically provided at the time of final plat approval.

(b) Sketch plan.

(1) Purpose.

- a. The purpose of the sketch plan is to permit the City to perform an initial informal review of the proposed development at an early stage in the planning process. The City shall not formally approve or disapprove a sketch plan. Comments and suggestions may be offered to the applicant during this phase to provide guidance or clarify City rules, regulations or policies.
- b. The Director may, in his or her sole discretion, waive the sketch plan requirement for major subdivisions consisting of ten (10) or fewer acres. If the sketch plan is waived, an application may begin the major subdivision process with a preliminary plan application as provided in Subsection (c) below.

(2) Submittal requirements.

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- a. The applicant shall file a sufficient number of copies, as determined by the Director, of the sketch plan application, along with the application fee set forth in the Fee Schedule located in Appendix 16-C and any additional information requested by the Director for the proposed subdivision.
- b. The application shall include the following information. The Director may waive any of these submittal requirements upon a determination that such information is inapplicable to the proposed subdivision or would not materially aid the City in its consideration of the application:
  1. A drawn plan of the proposed subdivision, roughly to scale, illustrating the subdivision layout, access routes, proposed uses of the subject property, total acreage of land to be subdivided, number and approximate size of proposed lots and features and uses of adjoining properties.
  2. Identification of the location and size of all utility lines adjacent to the proposed subdivision.
  3. Information on topography, such as floodplain areas, wildlife habitat or hazard areas, drainage issues, steep grades and slopes, lakes, streams and vegetation.
  4. Information on geologic features of the property that may affect proposed development, the potential impact of such features and how the applicant proposes to mitigate such impact. Examples of such features are soil type, historic drilling or excavating activities, hazardous materials, possible exposure to radioactive materials, mudflows, unstable slopes and seismic activities.
  5. A property survey and statement of ownership of the land to be subdivided, showing ownership of the adjoining properties.
  6. Evidence of adequate water supply and sanitary sewer service, including the quantity and quality, source of water and the type of sewage disposal and treatment system proposed.
  7. Information on the proposed provision of public services and amenities, such as fire protection services, solid waste disposal, recreation, parks and schools.
  8. A fully executed reimbursement agreement under which the applicant agrees to pay the City's costs of reviewing and processing this phase of the subdivision application.
- (3) Procedure. The sketch plan application shall be reviewed by the City in accordance with the Process Chart set forth in Section 16-3-20 of this Chapter.
- (c) Preliminary plat.
  - (1) Purpose. The purpose of the preliminary plat is to provide the City with an overall master plan for the proposed subdivision. It is more detailed than the sketch plan and should incorporate the comments and guidance provided during the sketch plan process. The City will take formal action on a preliminary plat application.
  - (2) Submittal requirements.
    - a. The applicant shall file a sufficient number of copies, as determined by the Director, of the preliminary plat application, along with the application fee as set forth in the Fee Schedule located in Appendix 16-C and any additional information requested by the Director.
    - b. The preliminary plat application shall include the following information. The Director may waive any of the following requirements upon a determination that such information is inapplicable to the proposed development:
      1. A vicinity map drawn to scale, showing a minimum of one-half (½) mile around the outermost boundaries of the proposed subdivision and illustrating existing

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roads, streams, City boundaries, platted and unplatted areas, adjoining ownerships, above- and below-ground utilities and other major features of the surrounding properties, whether natural or man-made features. The map should also include section lines, if applicable, or indicate the nearest section lines for reference purposes.

2. A preliminary plat map, drawn to scale, with dimensions of twenty-four (24) by thirty-six (36) inches, illustrating the following:
  - a) Proposed name of the subdivision.
  - b) Date of preparation of the map, a true north arrow, scale and signature of the map preparer.
  - c) Names and addresses of the landowners, the applicants and the designer of the subdivision.
  - d) An accurate survey of the perimeter boundary of the subdivision with ties to permanent location markers and total acreage of the subdivision.
  - e) Topography, including contour lines at two-foot intervals.
  - f) The location and dimensions of all existing and proposed rights-of-way, including names thereof, all buildings, easements, water and sewer lines, telephone lines, power lines, gas lines, water courses and other significant features within the subject property and adjoining properties.
  - g) Principal dimensions to the nearest foot and the approximate area of all proposed lots, parcels and tracts.
  - h) Proposed use or uses for each lot, parcel and tract.
  - i) Number or letter designation for each lot, parcel and tract. Lots must be consecutively numbered, either throughout the subdivision or block by block. Parcels and tracts may be designated by any other reasonable lettering or numbering system.
  - j) Names of adjoining subdivisions and the names of the owners of any adjoining unplatted property.
  - k) Proposed method of compliance with the requirements of Article 13 of this Chapter concerning proposed development within areas of special flood hazard, if applicable.
3. Evidence that adequate water shall be supplied to the subdivision in terms of quantity, dependability and quantity. Such evidence must be provided in a written report prepared and signed by a professional engineer registered in the State.
4. Evidence that adequate sewage treatment facilities that comply with all applicable state, local and federal requirements shall be provided to the subdivision. This evidence must also be provided by a written report prepared and signed by a professional engineer registered in the State.
5. Evidence of compliance with the dedication and performance guarantee requirements found in Article 11 of this Chapter, as applicable.
6. Any proposed covenants or restrictions to control activities or land uses within the subdivision.
7. If the proposed subdivision lies wholly or partially within a geographic, topographic, wildlife or other type of hazard area, a report, map and data detailing the particular hazard, the effect such hazard may have on the proposed development and use of the subdivided land, any applicable state or federal rules, regulations or policies that affect development in and around such hazard

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and a minimum of two (2) alternatives to address such hazard in the context of the proposed subdivision.

8. If any proposed right-of-way will intersect with a state or federal highway, a copy of the applicable access application or permit.
  9. An erosion control plan and drainage plan.
  10. A preliminary fire protection plan.
  11. A preliminary engineering plan for utilities and roads.
  12. A title report, dated no more than three (3) months prior to submission of the preliminary plat application, showing the names of all surface owners, lien holders, mineral owners and lessees of mineral rights in the platted area as the names appear upon records in the County Clerk and Recorder's Office. The title report shall also provide all easements of record and shall show clear title to all rights-of-way and other parcels being dedicated to the City.
  13. A fully executed reimbursement agreement under which the applicant agrees to pay the City's costs of reviewing and processing this phase of the subdivision application.
- (3) Procedure. The preliminary plat application shall be reviewed by the City in accordance with the Process Chart set forth in Section 16-3-20 of this Chapter.
- (d) Final plat.
- (1) Purpose. The purpose of the final plat is to complete the subdivision of land in conformance with all the applicable requirements and standards of the City and all recommendations made at earlier stages of major subdivision review. It is the last step in the major subdivision process.
  - (2) Submittal requirements.
    - a. Not more than twelve (12) months after submittal of a sketch plan, or after submittal of a preliminary plat application if no sketch plan is required, the applicant shall file a sufficient number of copies, as determined by the Director, of the final plat application, along with the application fee as set forth in the Fee Schedule located at Appendix 16-C and any additional information requested by the Director or identified as required by the Planning Commission or the City Council during the preliminary plat process.
    - b. The final plat application shall include the following information. The Director may waive any of the following requirements upon a determination that such information is inapplicable to the proposed development:
      1. A Mylar plat, drawn to scale, with dimensions of twenty-four (24) by thirty-six (36) inches, signed by a registered Colorado land surveyor, illustrating the following:
        - a) Subdivision name, scale, true north arrow, date of preparation and basis of bearings.
        - b) The property owner's name and mailing address.
        - c) A legal description of the subject property and the total acreage.
        - d) Complete survey data indicating all information necessary to establish the boundaries in the field, a description of all monuments which mark the boundaries of the property and a description of all control monuments used in conducting the survey.
        - e) Subdivision boundary lines; all rights-of-way lines; easements; and property lines of lots, parcels and tracts; all of which shall illustrate accurate distances, bearings, curve radii, central angles and arc lengths.

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- f) Proposed right-of-way names and easement descriptions and widths, of each right-of-way and easement.
- g) The number or letter designation of each lot, parcel and tract and the area of each.
- h) A vicinity map drawn to scale, illustrating the perimeter of the platted area, accesses to and from the subdivision, adjoining subdivisions and unplatted lands, any surrounding section lines and other information which could assist someone unfamiliar with the area in locating the subdivision.
- i) All plat notes and dedication language required by Article 11 of this Chapter, as applicable.
  - 2. A tax certificate from the County Treasurer showing that no taxes are currently due or delinquent against the subject property.
  - 3. A title report, dated no more than three (3) months prior to submission of the final plat application, showing the names of all surface owners, lien holders, mineral owners and lessees of mineral rights in the platted area as the names appear upon records in the County Clerk and Recorder's office. The title report shall also provide all easements of record and shall show clear title to all rights-of-way and other parcels being dedicated to the City.
  - 4. A certificate notice to mineral estate owners as required by Section 24-65.5-103, C.R.S.
  - 5. Written evidence from utility companies, as applicable, regarding their ability to provide service to the subdivision.
  - 6. Any restrictions or covenants to be recorded controlling the use of land and activities within the subdivision.
  - 7. If any proposed right-of-way will intersect with a state or federal highway, a copy of the applicable access application or permit.
  - 8. Two (2), or such other number as designated by the Director, complete sets of design and construction drawings prepared by a professional engineer licensed in the State that shall include: roadway/utility plan and profiles, roadway/utility cross-sections, a drainage plan and other details necessary for construction, at a scale no smaller than one (1) inch equals forty (40) feet, unless otherwise approved by the City Engineer.
  - 9. Construction drawings shall be prepared on twenty-four-inch by thirty-six-inch plan and profile sheets at a minimum horizontal scale of one (1) inch equals forty (40) feet with a vertical scale of one (1) inch equals five (5) feet. Other scales may be approved by the City Engineer. Each drawing shall include a title block showing the project identity, scale and date, name and title of designer, a north arrow, legend and notes.
  - 10. Roadway design shall be prepared on plan and profile drawings. The plan view of the roadway should be shown by centerline stationing with curve control points being identified by stationing. The curve radii, delta angles and bearings of tangents shall be shown when required by the City Engineer. All rights-of-way and right-of-way elements, such as curbs, gutters, utilities and easements, shall be illustrated. The profile shall illustrate vertical alignment for existing and proposed roads and storm sewers by stationing and grade. The plan and profile of any given road shall be illustrated on the same sheet. The cross-culvert locations shall be shown by stationing and skew angle. All applicable City design specifications and standards shall be followed.

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11. Any major intersections shall be identified by the City Engineer. Major intersection design shall require illustration at a scale of one (1) inch equals twenty (20) feet on a twenty-four-inch by thirty-six-inch plan-drawing sheet. The configuration and channelization shall be shown in detail to include elevations of the roadway surface, curbs and gutters; striping and paving; and signalization.
  12. Unless waived by the City Engineer, a drainage study must be prepared and provided by a professional engineer licensed in the State. The drainage study shall include an illustration prepared on a twenty-four-inch by thirty-six-inch plan-drawing sheet, drawn at the same scale as the roadway drawings, that illustrates: contours of existing conditions and of developed conditions; flow paths of stormwaters; the outlines of sub and major drainage basin flows to and within the subdivision; and runoff control measures such as detention ponds. The drainage study shall also describe the effect of off-site flows on the subdivision and how the subdivision will affect flows to adjoining properties, including any control measures which will be necessary for proper conveyance of such flows.
  13. Construction details of proposed roadway and drainage structures shall be shown at a scale of one (1) inch equals twenty (20) feet or one (1) inch equals ten (10) feet, as determined by the City Engineer, on a twenty-four-inch by thirty-six-inch plan-drawing sheet. The sheet shall be identified by a title block to include all pertinent information. The details may additionally be presented on an eight-and-one-half-inch by eleven-inch paper to be included in the construction specifications report. The drawings shall depict construction details of such items as erosion protection measures at culverts, drop inlets, detention pond facilities, final roadway template showing structural data, channel cross sections and other structures pertinent to construction.
  14. Evidence of compliance with the requirements of Article 13 of this Chapter concerning proposed development within areas of special flood hazard, if applicable.
  15. A hazard mitigation plan when required as a result of preliminary plat review and noted on the final plat.
  16. A fire protection plan reviewed and approved by the Fire Chief.
  17. Any deeds or other instruments required to complete or secure the conveyance of lands for public purposes, as determined by the City.
  18. A Subdivision Improvements Agreement (SIA) fully executed by the applicant and that meets the requirements of Section 16-11-20 of this Chapter.
  19. A reimbursement agreement fully executed by the applicant under which the applicant agrees to pay the City's costs of reviewing and processing this phase of the subdivision application.
- (3) Procedure. The final plat application shall be reviewed by the City in accordance with the Process Chart set forth in Section 16-3-20 of this Chapter.

(Ord. 789-08 §1)

**Sec. 16-9-20. Minor subdivision.**

(a) General provisions.

- (1) A subdivision application shall be classified as a minor subdivision application and governed by this Section when the application proposes to create fewer than four (4) new lots, parcels,



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tracts, spaces or interests unless such application proposes or requires public infrastructure to be constructed in association with the subdivision, in which case the subdivision shall be classified as a major subdivision, regardless of size.

- (2) For purposes of this Subsection, public infrastructure is defined by Paragraph 16-9-10(a)(2) above.
  - (3) The minor subdivision process shall consist of two (2) separate phases unless otherwise provided herein, as provided in Subsections (b) and (c) below.
  - (4) The approval of a sketch plan shall expire after twelve (12) months, it being the intent of the City that a sketch plan ultimately and timely lead to the City's consideration of a final plat. Approval of a final plat shall expire after twenty-four (24) months unless otherwise specifically provided at the time of final plat approval.
- (b) Sketch plan.
- (1) Purpose.
    - a. The purpose of the sketch plan is to permit the City to perform an initial informal review of the proposed development at an early stage in the planning process. The City shall not formally approve or disapprove a sketch plan. Comments and suggestions may be offered to the applicant during this phase to provide guidance or clarify City rules, regulations or policies.
    - b. The Director may, in his or her sole discretion, waive the sketch plan requirement for a minor subdivision if it is determined that the sketch plan process would not materially assist the City or the applicant in the subdivision process. If the sketch plan is waived, an application may begin the minor subdivision process with a final plat application as provided in Subsection 16-9-20(c) below.
  - (2) Submittal requirements.
    - a. The applicant shall file a sufficient number of copies, as determined by the Director, of the sketch plan application, along with the application fee set forth in the Fee Schedule located in Appendix 16-C and any additional information requested by the Director for the proposed subdivision.
    - b. Unless waived by the Director as provided herein, the application shall meet all the submittal requirements for a major subdivision sketch plan under Paragraph 16-9-10(b)(2) of this Article. The Director may waive any of the submittal requirements upon a determination that such information is inapplicable to the proposed subdivision or would not materially aid the City in its consideration of the application.
  - (3) Procedure. The sketch plan application shall be reviewed by the City in accordance with the Review Process Chart set forth in Section 16-3-20 of this Chapter.
- (c) Final plat.
- (1) Purpose. The purpose of the final plat is to accomplish subdivision of land in conformance with all the applicable requirements and standards of the City and all recommendations made at earlier stages of minor subdivision, if applicable.
  - (2) Submittal requirements.
    - a. Not more than six (6) months after submittal of a sketch plan, if applicable, the applicant shall file a sufficient number of copies, as determined by the Director, of the final plat application, along with the application fee set forth in the Fee Schedule located in Appendix 16-C and any additional information requested by the Director for the proposed subdivision.

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- b. Unless waived by the Director as provided herein, the application shall meet all the submittal requirements for a major subdivision final plat application under Paragraph 16-9-10(d)(2) of this Article. The Director may waive any of the submittal requirements upon a determination that such information is inapplicable to the proposed subdivision or would not materially aid the City in its consideration of the application.
- (3) Procedure. The final plat application shall be reviewed by the City in accordance with the Review Process Chart set forth in Section 16-3-20 of this Chapter.

(Ord. 789-08 §1)

**Sec. 16-9-30. Plat correction; amendment.**

(a) Purpose.

- (1) The purpose of the subdivision plat correction and amendment process is to provide an abbreviated submittal and review process for minor amendments or corrections to previously approved plats when such corrections or amendments will create minimal impacts on the subject property and adjoining properties and when full compliance with the major or minor subdivision requirements would cause undue hardship to the applicant.
- (2) Applications to vacate a dedicated public right-of-way are governed by this Section only if such application otherwise satisfies one (1) or more of the criteria set forth in Subsection (b) below. In addition to any applicable requirement of this Article, all right-of-way vacation applications are governed by and must meet the requirements of Section 43-2-301, et seq., C.R.S.

(b) Applicability. The Director shall determine whether an application falls within the scope of this Section pursuant to this Subsection and consistent with the stated purpose set forth in Subsection (a) above. This Section shall apply to applications to:

- (1) Correct a minor survey or drafting error on a plat discovered after final approval of the plat if the corrected plat meets all of the original applicable standards and criteria of this Article.
- (2) Amend a plat for the purpose of minor lot line boundary adjustments involving no more than two (2) contiguous lots, parcels or tracts, provided that no new nonconforming lots, parcels or tracts are created.
- (3) Amend a plat for the purpose of consolidating lots when the consolidated lots are under the same ownership.
- (4) Amend a plat to otherwise resubdivide or replat when the effects of such amendment are so minor as to create minimal land use impact and render the major and minor subdivision processes unnecessary.

(c) Submittal requirements.

- (1) The applicant shall file a sufficient number of copies, as determined by the Director, of the plat amendment or plat correction application, the application fee set forth in the Fee Schedule located in Appendix 16-C and any additional information requested by the Director.
- (2) The Director may waive any of the submittal requirements upon a determination that such information would not materially aid the City in its consideration of the application. Unless otherwise waived, the application shall include the following information:
  - a. An amended plat, drawn to scale and suitable for recording, with dimensions of twenty-four (24) inches by thirty-six (36) inches, signed by a registered Colorado land surveyor and clearly illustrating the final configuration of the proposed amended or corrected plat.

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- b. A plat which clearly illustrates the proposed amendment or correction in relation to the original configuration of the plat.
  - c. A written statement providing details of the proposed amendment or correction and the reasons why the same are necessary.
  - d. An original tax certificate for all lots, parcels and tracts involved from the County Treasurer showing that no taxes are currently due or delinquent against the property.
  - e. An original title report, dated no more than three (3) months prior to submission of the application, from a licensed Colorado title company showing the names of all surface owners and lien holders and all existing easements.
  - f. Any additional reports, data or information reasonably determined by the Director to be helpful to the City in determining whether the corrected or amended plat will meet all applicable requirements of this Chapter.
- (d) Procedure. The application shall be reviewed by the City in accordance with the Process Chart set forth in Section 16-3-20 of this Chapter.

(Ord. 789-08 §1)

**Sec. 16-9-40. Exemptions.**

This Article shall not apply to the following divisions of land:

- (1) The division of land by order of any court in the State or by operation of law.
- (2) The creation or modification of a cemetery lot, tract or parcel.
- (3) The division of land by a lien, mortgage, deed of trust or any other security interest.
- (4) The division of land by a security or unit of interest in any investment trust regulated under the laws of the State or any other interest in an investment entity.
- (5) The division of land which creates an interest or interests in oil, gas or minerals which are now or hereafter severed from the surface ownership of real property.
- (6) The division of land by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this Section as only one (1) interest.
- (7) The division of land by reason of the dissolution of a joint venture.
- (8) The division of land by conveyance of real property to the City in satisfaction of land dedication, subdivision, annexation or other City requirements.

(Ord. 789-08 §1)

**Sec. 16-9-50. Waivers.**

In addition to the authority of the Director to waive certain requirements of this Article, the City Council may waive any requirement of this Article if it determines such waiver to be in the best interests of the City.

(Ord. 789-08 §1)

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**ARTICLE 10 Design Standards**

[Sec. 16-10-10. Lots.](#)

[Sec. 16-10-20. Blocks.](#)

[Sec. 16-10-30. Monuments and markers.](#)

[Sec. 16-10-40. Easements.](#)

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[Sec. 16-10-120. Utilities.](#)

**Sec. 16-10-10. Lots.**

- (a) All lots shall abut a street. Generally, the depth of a lot shall not exceed three (3) times the lot frontage. Some deviation from this provision may be permissible for topographical and drainage purposes, but not for the purpose of splitting a large tract into deeper than normal lots so that the provision of streets for proper access to lots can be avoided. Unusually deep lots or "pipe stem" lots (lots with minimal lot frontage adjacent to one another) shall be discouraged.
- (b) Double frontage lots shall not be platted, except that, where desired along a highway, arterial street or a railroad, lots may face on an interior street and back on such right-of-way. In that event, a planting strip at least ten (10) feet in width shall be provided along the rear lot line.
- (c) Lot width and lot area shall not be less than that provided in Article 5 of this Chapter for the district in which the subdivision is located.
- (d) Corner lots shall be wider than interior lots in order to permit appropriate setbacks from adjacent streets. Interior lots abutting a corner lot shall be wider than the average interior lot in order to permit a wider side yard adjacent to the corner lot.
- (e) Side lot lines shall be substantially at right angles or radial to street lines. Some variation from this rule is permissible, but pointed or very irregular lots shall be avoided.
- (f) No lot shall be divided by a municipal or county boundary line, road, alley or other lot.

(Ord. 789-08 §1)

**Sec. 16-10-20. Blocks.**

- (a) Blocks shall not exceed nine hundred (900) feet in length or be less than three hundred (300) feet in length. The length of blocks shall be considered to be the distance from street centerline to opposite

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street centerline and shall be measured through adjacent rear property lot lines or through the center of the block.

- (b) All blocks shall be abutted by one (1) or more streets. Service access to the interior of blocks may be permitted in certain instances, in which case such alleys must be indicated on the plat.
- (c) Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth, except where an interior street parallels a highway, arterial street or a railroad right-of-way.

(Ord. 789-08 §1)

**Sec. 16-10-30. Monuments and markers.**

- (a) All major subdivision boundary corners shall be marked with a monument. Monuments shall be firmly set, substantial and not subject to settlement, frost heave or other movement. The monument shall be permanent and of such a nature, configuration and/or marking as to permit absolute, unquestionable identification.
- (b) Monuments shall be detectable with a ferrous metal finder. All monuments shall have a dowel or other permanent point marker and the surface shall have a chiseled, incised or embedded identification. All monuments shall be solid, without openings or voids.
- (c) Monuments of stone or concrete shall be not less than four (4) inches in the least dimension and shall be nearly square or round. Encased monuments, i.e., concrete in metal pipe or metal casing, shall not be less than three (3) inches in diameter. Solid metal cast iron or other fabricated monuments shall be not less than one and one-half (1½) inches in any least dimension and shall expose a surface not smaller than a three-inch diameter or equivalent area at the surface. Monuments shall extend to a depth of not less than thirty (30) inches below final ground surface level.
- (d) Intermediate corners, lot corners, reference and/or radius points shall be solid iron rods not less than five-eighths (5/8) inch in diameter, iron pipe not less than three-quarters-inch in diameter or other accepted long-lived identifiable object which is firmly set, free from movement and which can be located with a ferrous metal detector. Markers shall extend not less than thirty (30) inches into solid ground.
- (e) All monuments and markers of a subdivision shall be of a similar type material.
- (f) The location of all monuments and markers shall be determined and set by a professional land surveyor.

(Ord. 789-08 §1)

**Sec. 16-10-40. Easements.**

- (a) Easements shall be provided for all utility lines, including but not limited to water, sewer, stormwater, gas, electric, telephone and cable television.
- (b) Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located so as to permit multiple installations within the easements.
- (c) Easements centered on rear or side lot lines shall be provided for utilities where necessary and shall be at a minimum of six (6) feet wide on each side of property lines. Easements shall be contiguous to the street at the end of the block to connect with adjoining blocks in the shortest direct line.

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- (d) Where front line easements are required, a minimum of six (6) feet shall be allocated as a utility easement.
- (e) Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water courses. Parallel streets or parkways may be required in connection therewith.

(Ord. 789-08 §1)

**Sec. 16-10-50. Streets.**

- (a) The City of Brush Street Development Standards, adopted as a separate regulation and as amended from time to time, contain the minimum street requirements for all subdivisions, except where unusual topography, size or shape of property or other exceptional situation or condition may warrant variance from such requirements.
- (b) The latest edition of the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction controls construction, except where specifically revised by the City of Brush Street Development Standards, adopted as a separate regulation and as amended from time to time.
- (c) All streets shall be designed in relation to existing and planned streets, topographical conditions, public convenience and safety and the proposed uses of the land to be served by such streets.
- (d) Certain proposed streets, where appropriate, shall be extended to the boundary of the tract to be subdivided so as to provide for future connection to adjacent undeveloped land.
- (e) Where a subdivision abuts or contains an existing or proposed primary street or highway, the City Council may require, after Planning Commission review, service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- (f) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the City Council, after Planning Commission review, may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distance shall be determined with due regard for the requirements of approach grades and future grade separations.
- (g) No more than two (2) streets shall intersect at one (1) point.
- (h) Streets shall have the names of existing streets which are in alignment in the City or in adjoining unincorporated Morgan County. There shall be no duplication of street names.

(Ord. 789-08 §1)

**Sec. 16-10-60. Sidewalks and trails.**

- (a) Where a proposed subdivision lies within the corporate limits of the City or is adjacent to another subdivision which has been provided with sidewalks, and when the proposed subdivision will have lots which average less than one (1) acre in area for lots included in the subdivision, the City shall require that sidewalks be installed on each side of the street.
- (b) All sidewalks shall be a minimum of five (5) feet wide and meet current ADA requirements. Replacement of existing sidewalks shall be to the width of the adjacent or connecting sidewalk.

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- (c) The closest edge of sidewalks adjacent to a collector or arterial street shall be placed at least five (5) feet from the curb line.
- (d) Where blocks are longer than six hundred sixty (660) feet, the City Council may require, after Planning Commission review, a pedestrian crosswalk connecting adjacent streets or other public areas at or near the middle of the block to permit acceptable pedestrian access to abutting streets. Such crosswalks shall be at least ten (10) feet in width.
- (e) Where a means of pedestrian access is necessary from the development to schools, parks, playgrounds or other roads or facilities and such access is not conveniently provided by sidewalks adjacent to the roads, the City Council may require, after Planning Commission review, the applicant to reserve an unobstructed trail easement of at least ten (10) feet in width to provide such access.
- (f) The City of Brush Street Development Standards, adopted as a separate regulation and as amended from time to time, contain the minimum sidewalk construction requirements for all subdivisions.
- (g) See Chapter 11, Article 1 of this Code for additional provisions regarding sidewalks.

(Ord. 789-08 §1)

**Sec. 16-10-70. Natural features.**

- (a) The design and development of all subdivisions subject to this Chapter shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil, unusual rock formations, lakes, rivers, streams and trees.
- (b) Significant vegetation, including dominant or mature trees and shrubs, shall be retained where possible. When regenerating sites, replacement trees or shrubs shall be selected from indigenous species native to the region. Provisions shall be made to provide adequate hydration and appropriate soil for the replacement trees to ensure successful growth.
- (c) Land subject to hazardous conditions, such as landslides, mud flows, rock falls, shallow water table, open quarries, floods, undermining and polluted or nonpotable water supply, shall not be subdivided until the hazards have been eliminated or mitigated.

(Ord. 789-08 §1)

**Sec. 16-10-80. Storm drainage.**

- (a) Complete drainage systems for the entire subdivision area shall be designed by a professional engineer licensed in the State. At a minimum, the drainage system shall be designed:
  - (1) To permit the unimpeded flow of natural watercourses.
  - (2) To ensure adequate drainage of all low points.
  - (3) To provide for a ten-year storm event.
- (b) The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and "upstream" from the subdivision itself, as well as its effects on lands downstream.
- (c) No subdivision or any part thereof shall be approved if proposed cuts, fills, structures or other features within the proposed subdivision will, individually or collectively, significantly increase flood flows, heights or damages.

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- (d) Lots and blocks shall be so graded as to eliminate depressions that would accumulate stormwater. Grades at building sites shall bear such relationships to roadway and curb grades as to prevent flooding during heavy storms of basement windows or of entryways either to basement or to first-floor levels in the absence of basements.
- (e) All water courses crossed by streets or alleys shall be provided with adequate and permanent culverts of a size, type and material approved by the Director. Culverts on existing streets shall be enlarged wherever necessary by reason of diverted or increased concentration of drainage.
- (f) Adequate drainage facilities shall be installed prior to construction of any buildings in the subdivision.
- (g) The drainage system shall be designed and constructed in conformance with the "Water Pollution Control Act" and the "Air Pollution Control Act" of the State.

(Ord. 789-08 §1)

**Sec. 16-10-90. Water.**

- (a) Public water supply connected to the City water utility system shall be provided to serve each lot within a subdivision.
- (b) All water utility facilities shall be designed and constructed in accordance with City standards, adopted as a separate regulation and as amended from time to time.
- (c) See Chapter 13, Article 4 of this Code for additional provisions regarding water.

(Ord. 789-08 §1)

**Sec. 16-10-100. Fire protection.**

Every subdivision served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such subdivision. Design standards shall conform to the National Fire Protection Association (NFPA) standards. The Director may authorize or require a deviation from these standards if another arrangement more satisfactorily complies with NFPA or local standards.

(Ord. 789-08 §1)

**Sec. 16-10-110. Sanitary sewer.**

- (a) Each lot within a subdivision shall be connected to a public sewage collection system.
- (b) All sewer utility facilities shall be designed and constructed in accordance with City standards, as adopted as a separate regulation and as amended from time to time.
- (c) See Chapter 13, Article 5 of this Code for additional provisions regarding wastewater disposal.

(Ord. 789-08 §1)

**Sec. 16-10-120. Utilities.**

- (a) All gas, electric, telephone, cable television or other utility lines placed within the public right-of-way or dedicated easements shall be approved by the Director as to location.



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- (b) All utility installations shall be underground. Where underground distribution and/or service is to be provided at the front lot line, a utility easement for either or both the distribution lines and transformer pit shall be provided as needed.
- (c) All utility facilities shall be designed and constructed in accordance with City standards, as adopted as a separate regulation and as amended from time to time.

(Ord. 789-08 §1)

**ARTICLE 11 Dedications and Performance Guarantees**

[Sec. 16-11-10. Dedication requirements.](#)

[Sec. 16-11-20. Subdivision Improvement Agreement; required plat notes.](#)

[Sec. 16-11-30. Improvement guarantees; security.](#)

[Sec. 16-11-40. Acceptance of improvements.](#)

[Sec. 16-11-50. Maintenance.](#)

**Sec. 16-11-10. Dedication requirements.**

- (a) All residential major subdivisions and PUDs shall provide sites, land or cash-in-lieu of land for mitigation of the impacts of new growth on parks, trails, streets, open space and other necessary public facilities. The following improvements shall be constructed or provided at the expense of the applicant as more fully described in the Subdivision Improvements Agreement ("SIA"), a form of which is attached hereto as Appendix 16-B, in a manner approved by City Council and which is consistent with sound construction and local standards. Where a conflict exists between this Chapter, other applicable ordinances and the SIA, the most specific requirements shall control.
- (b) General.
  - (1) General standards for dedication.
    - a. The purpose of this Article is to provide the public facilities and services made necessary as a consequence of development, in an amount roughly proportional to the impact of the development upon such facilities and services, or the increased need for the facilities and services brought about by the development. The applicant shall have the option to accept the City's calculation of the required amount of dedication, or to perform such studies as are necessary to demonstrate an alternative amount of impact of the development upon public services and facilities, and the resulting appropriate dedication or other contribution.
    - b. The dedication of areas or sites of suitable type, size and location for public use for parks, open space, trails or other necessary public facilities may be required in accordance with the criteria set forth in this Section, based upon either the fair market value of a percentage of the acreage, a flat fee per lot or tract or any other method agreed upon by the City and the applicant.
    - c. The City may accept a cash payment in lieu of dedicated land if payment would better serve the public interest. Cash payments shall be earmarked and used for parks, open space, trails or other public facilities. Property values shall be established by an appraisal provided by the applicant and accepted by the City. Minimum payment for cash in lieu of dedication shall be one thousand dollars (\$1,000.00).

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- d. The City may accept land, in lieu of cash payments, equal in value to the required cash payment. Land dedicated in lieu of cash payment shall be used only to sell or trade for parks, trails, streets, open space and other necessary public facilities.
  - e. The applicant may be required to satisfy other conditions, as memorialized in the SIA or PUD agreement, determined to be desirable or necessary to mitigate the effects of development and to promote the public health, safety and welfare.
  - f. In those cases where all or a portion of the land to be dedicated for public purposes are in such locations, configurations or sizes to render the use of those areas for public purposes unacceptable to the City, the applicant may be required to dedicate alternative sites that will meet the needs of the City. Cash in lieu of dedication may also be required. The value of any combination of alternative site dedication and cash payment pursuant to this provision shall not exceed the full market value of the total required dedication of land. Full market value shall be established in accordance with Subparagraph c. above.
  - g. All moneys collected by the City under this Section shall be deposited in an interest-bearing account which clearly identifies the purpose for which the moneys were collected. Each such account shall be tracked separately. Any interest or other income earned on such moneys shall be credited to the account.
  - h. All land to be dedicated as required by this Section shall be designated on the final approved plat as outlots. These outlots shall not be building lots, with the exception of facilities owned or constructed by the City. Such outlots shall be conveyed by warranty deed to the City at the time the final plat is recorded. Title insurance acceptable to the City and a certificate of representations and warranties concerning title and usability of the property shall also be required at the time of final plat recordation.
- (2) General criteria. The City, in formulating the appropriate combination of dedication options set forth above, shall take into consideration the following criteria:
- a. The size of the proposed development;
  - b. The projected additional population associated with the proposed development; and
  - c. The projected need generated by the development for parks, trails, streets, open space and other necessary public facilities, the provision of which is not covered by other City requirements.
- (3) Parks. Residential, commercial and industrial developments shall provide park lands and a network of public sidewalks that provide access from public parking areas to buildings open to the general public. Residential, commercial and industrial developments shall also provide a sidewalk or trail where property is adjacent to the right-of-way. This sidewalk or trail shall run parallel to the right-of-way along the entire length of the property adjacent to the right-of-way. In determining which land areas are appropriate for dedication as parks and trails, the City Council shall consider the following criteria:
- a. The placement of park lands in such a manner as to assist in enhancing the environment and in preserving community integrity in the most practical, attractive manner possible.
  - b. The assurance of the continuity of open space links, trails and other major components of the recreation system.
  - c. The assurance that areas set aside for park lands have been examined for compliance with all regional plans, if any, for park and open spaces.
  - d. The assessment of the suitability of proposed land dedications for parks and recreation.
  - e. The examination of the size, shape, topography, geology, presence and condition of ground cover and timber, condition of soil, drainage, location, access and availability of water to lands proposed for park and trail purposes.

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- f. The assurance of the protection of natural and historical features, scenic vistas, watersheds, timber and wildlife.
  - g. Park lands that are intended to be used for trail rights-of-way (linear parks for pedestrian, equestrian or bicycle use) shall conform to the following criteria:
    - 1. The land may either be set aside as a dedicated easement or as a deeded outlot;
    - 2. The minimum width for such trail easement or outlot shall be based on the particular reasonable needs of the trail, its location, the surrounding terrain and the projected usage, but in no instance shall be less than ten (10) feet in width, and in all cases the easement shall be of adequate width to handle the proposed uses;
    - 3. There shall be adequate provision for public access to the trail easement within the subject property;
    - 4. The trail easement may overlap and include other property previously included in other easements, such as ditch, canal or utility, public open space or other easement, so long as no easement compromises the functional use of any other easement;
    - 5. Park land may be considered as part of the land set aside for open space or preservation as provided for in an approved subdivision or PUD; and
    - 6. Land with a slope of twelve percent (12%) or more shall not be considered.
- (4) Open space.
- a. For multi-family development, a minimum of twenty-five percent (25%) of the total platted area shall be devoted common open space. For single-family, commercial and industrial developments, the minimum requirement shall be fifteen percent (15%) of total platted area. The City may consider the size, location and character of particular parcels in meeting this requirement.
  - b. The amount of common open space shall be calculated exclusive of street rights-of-way, parking lots, individually owned yards, school sites, fire station sites and utility sites. Of the required common open space, not more than fifty-percent (50%) may be water surface such as lakes, ponds, rivers, etc. Single activity facilities, such as a golf course, tennis courts, etc., shall not comprise more than fifty percent (50%) of the total required open space land area.
  - c. If applicable, facilities may be required for employees in higher density developments, such as outdoor picnic areas, benches, walking paths, bicycle paths, etc.
  - d. The City may require, by deed restriction or covenant, that the owners be bound in perpetuity to a method of maintenance of the common open space areas and other common facilities, including private streets, grounds, sidewalks, street lighting, etc.
- (5) Streets.
- a. All roads, streets, alleys or other public traffic ways located within the development shall be dedicated as public rights-of-way unless specifically approved as private rights-of-way and so designated on the plat or other document of approval. Rights-of-way shall be conveyed to the City at the time of filing of the final approved plat or other document of approval.
  - b. The applicant must comply with the design criteria set forth in Article 10 of this Chapter and any other City ordinances and regulations.
- (6) Easements. Easements shall be dedicated as required by the City and to the specifications set forth in Section 16-10-40 of this Chapter.

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- (7) Development occurring on land containing irrigation ditches or canals, or operating under legal water rights, shall comply with the following, as required by the respective ditch company or ditch owner:
  - a. Irrigation ditches and canals shall be protected through the provision of adequate right-of-way easements to provide access for equipment to clean and maintain the ditch.
  - b. No structures shall be placed within these rights-of-way or easements without written permission from the appropriate ditch company or ditch owner.
  - c. Ditch or canal rights-of-way or easements shall not be used as access to projects. Gates of adequate width shall be provided for the maintenance of ditches by ditch right holders.
  - d. Fences shall be designed and placed in such a manner as to not interfere with the easement.
  - e. The number of ditch crossings, locations and sizes shall be approved by the ditch company or ditch owner.
- (8) Nontributary groundwater. The City shall require the applicant to convey all nontributary groundwater rights to the City, pursuant to Section 37-90-101, et seq., C.R.S., and Section 13-2-30 of this Code.
- (9) Other public facilities. For the purpose of mitigating impacts associated with a development, the City Council may require the dedication of land for other public facilities, including but not limited to fire stations, schools, libraries, police substations, municipal maintenance facilities or similar public purposes which are reasonably related to the demand created by the development. Such requirements shall be based upon requests to the City made by the public agency impacted by the development and the proportionate share of impacts created by the development.

(Ord. 789-08 §1)

**Sec. 16-11-20. Subdivision Improvement Agreement; required plat notes.**

- (a) No final plat shall be approved until the applicant has submitted a signed SIA, agreeing to construct or provide the required improvements, in the form attached as Appendix 16-B.
- (b) No final plat shall be approved without the inclusion of the dedication language attached as Appendix 16-D.

(Ord. 789-08 §1)

**Sec. 16-11-30. Improvement guarantees; security.**

- (a) Generally. An SIA acceptable to the City must be accepted and recorded concurrent with final approval and recordation of the subdivision plat.
- (b) Suitable security in an amount stipulated in an SIA shall accompany the final plat submittal. The security may take the form of cash, certified funds, a letter of credit or such other form acceptable to the City Attorney. The amount of the security shall equal one hundred twenty-five percent (125%) of the estimated cost of the required improvements. No letter of credit drawn upon a bank or financial institution having any relationship to the applicant or any principal, director, officer or shareholder of the applicant (other than the relationship of depositor or checking account holder) shall be acceptable. The City may reject any form of security for any reason.

(Ord. 789-08 §1)

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**Sec. 16-11-40. Acceptance of improvements.**

- (a) If the required improvements are not constructed or completed in accordance with the required specifications, the Director shall notify the applicant and establish schedules for correction of the noncompliance. If the Director determines that any or all of the improvements will not be constructed in accordance with the specifications, the Director may draw upon the provided security to complete the improvements in accordance with the specifications previously established.
- (b) As the required public improvements are completed, the applicant may apply in writing to the Director for a partial or full release of the provided security. If the Director determines that the improvements have been made in accordance with the final approval and SIA, the Director may release a corresponding portion of the provided security, provided that the City retains sufficient security to cover the cost of any incomplete improvements in addition to twenty-five percent (25%) of the original security amount. This twenty-five-percent security shall remain in place until the expiration of the warranty period set forth in this Section. Consent to release of funds or security shall not constitute acceptance by the City of any improvement.
- (c) Except as provided by an SIA, the City shall not accept responsibility for the operation or maintenance of any improvements until completion and final acceptance of the improvements. Upon written application by the applicant for a certificate of completion, and provided that all payments and other performances agreed to be made and performed by the applicant have been made and completed, the City shall issue a certificate of completion. Except for defects appearing within two (2) years after the date of the certificate and the retention of twenty-five percent (25%) security required by Subsection (b) above, the City will release the applicant from all further liability as to the completed improvements. Upon issuance of a certificate of completion, all improvements specified in the certificate shall be deemed approved and accepted by the City, after which the improvements shall be owned, operated and maintained by the City, subject to a warranty period of two (2) years and unless otherwise agreed between the City and the applicant.
- (d) No certificate of occupancy shall be issued for any structure located within the subdivision or PUD until the public improvements required to be constructed to serve the residents or occupants of such structure have been completed. No application shall be further processed concerning property which is owned, in whole or in part, by an applicant who is in default of any SIA or contract for any development within the City, or who is in default of any agreement with the City for the payment of any fee or charge.
- (e) Prior to the City's acceptance of any improvement, the applicant shall provide the City with a written warranty of work in a form acceptable to the Director (which warranty may be part of the improvements agreement) with respect to the improvements to be constructed, warranting that the work will be free of all defects in design, materials and construction and will remain serviceable for a period of two (2) years after completion and acceptance by the City.
- (f) Prior to the City's acceptance of any utilities, the applicant shall deliver to the City "as-built" designs of the utilities in both paper and electronic form. "As-built" designs submitted electronically shall be submitted using AutoCad as a DWG or DXF format.

(Ord. 789-08 §1)

**Sec. 16-11-50. Maintenance.**

Unless otherwise set forth in the SIA, maintenance of public improvements required by this Article shall be as follows:

- (1) Open space.

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- a. In the event that the organization established to own and maintain common open space, or any successor organization, fails at any time after establishment of the project to maintain the common open space in reasonable order and condition in accordance with the plan, the City may serve written notice upon such organization or the residents of the project, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days of the notice and shall state the date and place of a hearing thereon. The hearing shall be conducted before the City Council within five (5) days of the expiration of the compliance period.
  - b. If the deficiencies listed in the notice are not cured within the given compliance period, the City, in order to preserve the taxable values of the properties within the project and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the open space for a period of one (1) year. Said entry and maintenance shall not vest in the public any right to use the common open space except when the same is voluntarily dedicated to the public by the owners.
  - c. Before the expiration of the one-year period, the City shall, upon its own initiative or upon the request of any person previously responsible for maintenance of the common open space, call a public hearing on the matter of maintenance of the space. After providing notice of the public hearing, by posting conspicuous notice on the common open space property at issue at least ten (10) days prior to the hearing, the City Council shall conduct a hearing on the matter. At the hearing, any person previously responsible for maintenance of the common open space may give evidence or testimony why the City should not continue its maintenance of the space. If the City Council determines that any other person is ready and able to maintain the common open space in reasonable condition, the City may elect to cease to maintain the open space at the end of the current year. If the City Council determines that no person is ready and able to maintain said common open space in a reasonable condition, the City may continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each subsequent year.
  - d. The cost of such maintenance by the City shall be paid by the owners of properties within the project who have a right to use the common open space. Any unpaid assessments shall become a tax lien against the benefited properties. The City shall file a notice of such lien in the office of the County Clerk and Recorder upon the properties affected by such lien within the project and shall certify such unpaid assessments to the County Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.
- (2) Roads. The subdividers of property served by new subdivision roads shall be responsible for maintenance of the roads until such time as the roads are finally accepted by the City in accordance with Subsection 16-11-40(d) of this Article.
  - (3) Covenants. Private covenants may be imposed upon new development for the protection and maintenance of the private open space and other common areas and amenities of the development, including private roadways, sidewalks, trails and drainage facilities. Copies of proposed covenants shall be submitted to the City for review prior to final project approval. While private covenants may address matters which are also governed by this Chapter, no private covenant shall supersede this Chapter. To the extent this Chapter is more stringent than a private covenant, this Chapter shall control. To the extent the covenants are more stringent, they may be enforced by private action, but not by the City. A private covenant may not permit what this Chapter prohibits.

(Ord. 789-08 §1)

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**ARTICLE 12 Signs**

[Sec. 16-12-10. Purpose.](#)

[Sec. 16-12-20. Intended use of sign.](#)

[Sec. 16-12-30. Permit required.](#)

[Sec. 16-12-40. Permit application and fee.](#)

[Sec. 16-12-50. Exemption from required permit.](#)

[Sec. 16-12-60. General provisions.](#)

[Sec. 16-12-70. Permitted signs by land use districts.](#)

[Sec. 16-12-80. Enforcement.](#)

[Sec. 16-12-90. Appeal from decision of administrative official.](#)

**Sec. 16-12-10. Purpose.**

The purpose of this Article is to regulate all exterior signs so as to protect property values, characters and aesthetics of various areas of the City and to protect the health, safety and public welfare of the citizens.

(Ord. 789-08 §1)

**Sec. 16-12-20. Intended use of sign.**

Any sign placed on the ground or on a building for identification of the premises or for advertising an activity conducted therein or thereon shall be deemed to be accessory and incidental to such premises, building or use. It is intended that the type and size of the sign shall be appropriate to the lot, building or use to which it is bound and shall be reasonably adequate but not unreasonably excessive for the purpose of identification or advertisement.

(Ord. 789-08 §1)

**Sec. 16-12-30. Permit required.**

No person shall install, alter or replace any sign within the corporate limits of the City without first obtaining a sign permit from the Building Department, except in the case of those signs exempt from such requirement under the provisions of Section 16-12-50 below.

(Ord. 789-08 §1)

**Sec. 16-12-40. Permit application and fee.**

An application for a sign permit shall be made upon forms provided by the City. Such application shall set forth the name and address of the owner of the lot on which the sign is located, the size, height, type and general description of the proposed sign, the land use designation of the district where the sign

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will be located, the sign erector's name and address, and such other pertinent information deemed necessary by the Building Official to determine the sign's safety and conformity to this Article. There shall be paid, at the time of application, a sign permit fee calculated from the fee structure set forth in the Building Code adopted in Chapter 18 of this Code.

(Ord. 789-08 §1)

**Sec. 16-12-50. Exemption from required permit.**

The following types of signs are exempt from the permit requirements of Section 16-12-30 above:

- (1) Temporary display, meeting and event signs. Any banners, flags, pennants, streamers or balloons displayed during a grand opening, open house or parade; provided that such sign shall not cover more than ten percent (10%) of the street face of the building or structure to which it is related, is not closer than thirty (30) feet to a street intersection and is placed on the lot to which it is related.
- (2) Public signs. Any sign required by regulation, resolution, ordinance or statute of the federal, state, county or municipal government.
- (3) Real estate signs. Any real estate signs advertising the sale or lease of a premises erected and used in accordance with the provisions of this Article.
- (4) Rooms for rent signs. All signs advertising individual rooms for rent within a rooming house, provided that such signs do not exceed two (2) square feet of display area.
- (5) Construction signs. Temporary signs erected and used in accordance with this Article that advertise the proposed new use of the premises and any signs that are necessary for safety placed on the premises or on a temporary protective fence around a work site.
- (6) Political signs. Political or campaign signs no larger than thirty-two (32) square feet on behalf of candidates for public office or measures on election ballots; provided that such signs are erected on private property only, with the consent of the property owner, no earlier than two (2) months preceding the election related to the sign and are removed within ten (10) days following the election to which related; and provided further that no such signs are affixed to utility poles in any public property.
- (7) House numbers and nameplates. House numbers and nameplates not exceeding two (2) square feet in area for each residential building.
- (8) Signs on windows and doors. All signs painted on windows and doors of a building or structure.

(Ord. 789-08 §1)

**Sec. 16-12-60. General provisions.**

- (a) No sign which by reason of its size, shape or color may be confused with or construed as a traffic control sign, signal or device shall be permitted in any land use district in the City.
- (b) No sign or sign structure that obstructs any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure shall be permitted in any land use district in the City.
- (c) Any sign or sign structure which may be or hereafter becomes rotted, unsafe, dilapidated or in a state of disrepair shall be repaired to the standards set forth in this Article or removed by the sign owner within ten (10) days of written notice of the Director.



- SUPPLEMENT HISTORY TABLE

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- (d) Whenever a business, industry or service using a sign is discontinued, the sign shall be removed by the owner within thirty (30) days of such discontinuance.
- (e) No sign shall be attached to any utility pole or structure within any public right-of-way; provided, however, that a governmental entity shall be permitted to attach directional signs to light or traffic control poles.
- (f) Except as specifically provided for in this Article, no sign shall project, overhang or otherwise be located on public property.
- (g) No freestanding sign shall be closer than thirty (30) feet to any intersection.
- (h) Sign area shall be measured using standard mathematical formulas, with the area of double-faced signs calculated on one (1) face of the sign only.

(Ord. 789-08 §1)

**Sec. 16-12-70. Permitted signs by land use districts.**

- (a) The following table of permitted sign types by land use districts (Table 12-1) shall control the siting of signs in the City:

TABLE 12-1  
Sign Types by Land Use District

Sign Type	AG	EP	RE	R-LD	R-MD	R-MHD	R-MH	C	CC	I
Animated								X	X	
Canopy								X	X	X
Wall	X	X	X	X	X	X	X	X	X	X
Freestanding	X							X	X	X
Home occupation	X	X		X	X	X	X			
Marquee								X	X	
Legal nonconforming	X	X	X	X	X	X	X	X	X	
Portable	X							X	X	X
Projecting								X	X	
Public	X	X	X	X	X	X	X	X	X	X

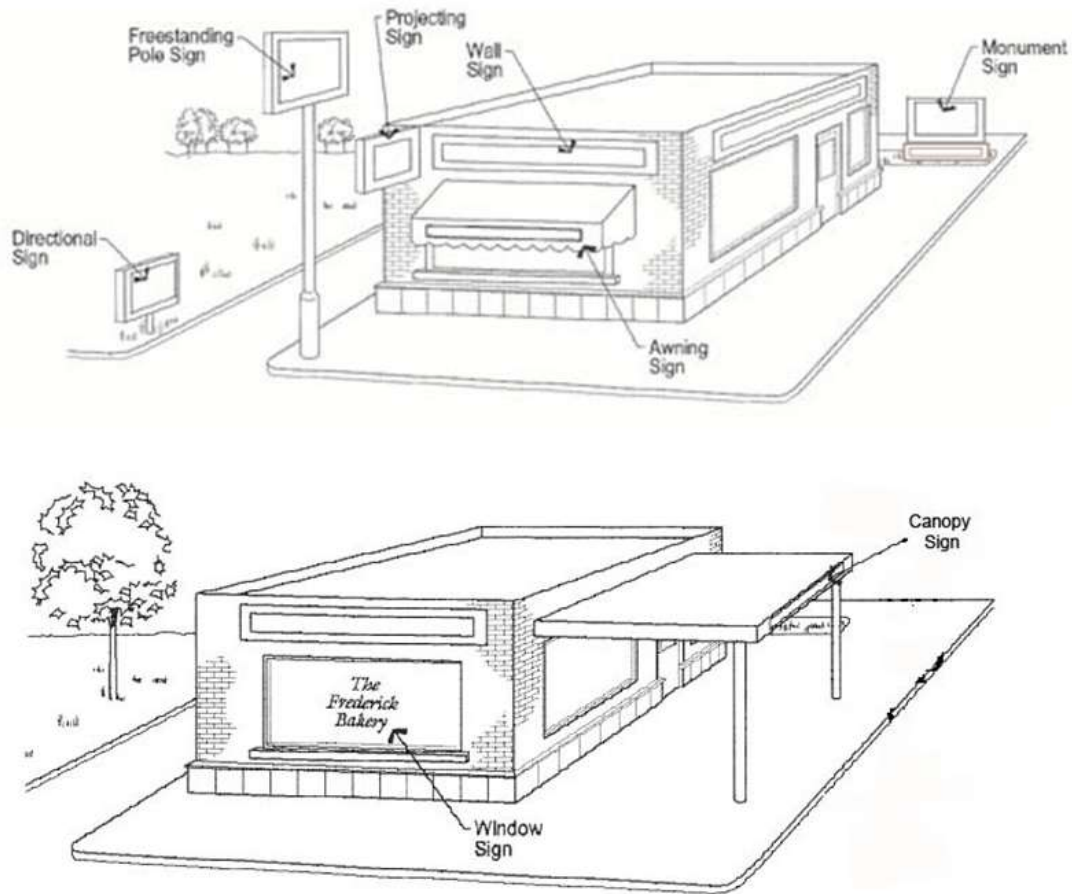
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Temporary	X	X	X	X	X	X	X	X	X	X
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X = Sign type permitted in land use district

FIGURE 12-1  
Sample Sign Types



(b) The following conditions govern the erection and use of each sign type:

- (1) Animated sign.
  - a. One (1) such sign is permitted per business.
  - b. Type of permitted sign:
    1. Freestanding sign;
    2. Wall sign; and
    3. Projecting sign.
  - c. Maximum permitted size is sixty (60) square feet.

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- d. Maximum permitted height is twenty (20) feet for freestanding signs and the top of the wall for projecting signs.
  - e. Minimum permitted setback from the property line is one (1) foot if the sign is six (6) feet or less in height; otherwise, the minimum setback shall be the same as the height of the sign.
  - f. For a projecting sign, the maximum length of the sign from the wall to which it is attached is five (5) feet, provided that the sign shall not project over public property unless a minimum ground clearance of nine (9) feet is maintained; and in no event shall a projecting sign be closer than two (2) feet to the curb line.
- (2) Canopy sign.
- a. Use is limited to nonresidential areas.
  - b. Maximum permitted height above grade is twelve (12) feet.
  - c. Minimum permitted height above grade is nine (9) feet.
  - d. Maximum permitted size is thirty-two (32) square feet.
- (3) Wall sign.
- a. Use is limited to multi-family and nonresidential structures only.
  - b. Maximum permitted number of signs per premises is one (1) per street frontage.
  - c. Maximum permitted size of each sign shall not exceed:
    - 1. For C, CC and I Districts, two (2) square feet for each linear foot of building frontage.
    - 2. For all other districts, one (1) square foot for each linear foot of building frontage.
  - d. Maximum permitted height is the top of the wall to which the sign is attached.
  - e. Maximum permitted projection from the wall surface is twelve (12) inches.
  - f. Minimum permitted clearance above grade is nine (9) feet if located over any public property.
- (4) Freestanding sign.
- a. Use is limited to nonresidential areas only.
  - b. Maximum permitted number is one (1) per street frontage, plus one (1) additional sign for street frontages in excess of five hundred (500) feet.
  - c. Maximum size for a single-use building or structure is:
    - 1. For buildings or structures with ground floor area up to one thousand (1,000) square feet: fifty (50) square feet.
    - 2. For buildings with ground floor area over one thousand (1,000) square feet: fifty (50) square feet plus one (1) square foot of sign area for each two hundred (200) square feet of ground floor building area over one thousand (1,000) square feet, to a maximum sign area of seventy-five (75) square feet.
  - d. Maximum permitted size for buildings or structures having two (2) or more uses is:
    - 1. Same as Subparagraph c.1. above.
    - 2. Same as Subparagraph c.2. above.
    - 3. Maximum permitted height is fifteen (15) feet for C Commercial and CC Commercial Core land use districts and twenty-five (25) feet in other districts where permitted.

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4. Minimum setback from the property line is one (1) foot if the sign is six (6) feet or less in height; otherwise, the minimum setback shall be the same as the height of the sign.
- (5) Home occupation or home business sign.
  - a. Use is limited to residential areas only.
  - b. Maximum permitted number of signs is one (1) per dwelling unit.
  - c. Maximum permitted size is four (4) square feet.
  - d. Type of sign shall be limited to a single-faced, unlighted wall sign.
- (6) Marquee sign.
  - a. Use is limited to theaters only.
  - b. Maximum permitted size is one hundred fifty (150) square feet.
  - c. Maximum number per building use is one (1).
  - d. Maximum permitted height is the top of the exterior wall of the building or structure.
  - e. Maximum projection of the marquee face shall be the curb line.
  - f. Minimum permitted clearance above grade is nine (9) feet projecting over any public property.
- (7) Legal nonconforming sign.
  - a. Construction, enlargement, relocation, extension, replacement, reconstruction or alteration of a legal nonconforming sign to any extent is prohibited unless such sign is brought into compliance with this Article.
  - b. In the event that the use of a legal nonconforming sign is discontinued or abandoned for a period of six (6) consecutive months from the date of a documented inspection or from the date of a utility disconnect, the future use of such sign shall thereafter conform to the provisions of this Article.
  - c. A legal nonconforming sign that is damaged or destroyed to the extent of fifty percent (50%) of its value may not be reconstructed or repaired except in conformity with this Article; provided, however, that any such sign damaged or destroyed to any extent by police-documented vandalism may be repaired or reconstructed to its original design within ninety (90) days, but not thereafter.
  - d. Normal maintenance shall be permitted on all existing legal nonconforming signs.
- (8) Portable (any sign not permanently attached to the ground, a building or a structure).
  - a. Maximum permitted size is six (6) square feet.
  - b. Maximum permitted number is one (1) per business use.
  - c. Minimum setback from the property line is one (1) foot.
  - d. Maximum permitted height is six (6) feet.
  - e. The sign shall be securely anchored to the ground to prevent movement.
- (9) Projecting (see projecting sign in Subparagraph (b)(1)f. above).
  - a. Maximum permitted height is the roof line of the building to which it is attached.
  - b. Maximum permitted projection is five (5) feet, provided that the sign shall not project over public property unless a minimum clearance above grade of nine (9) feet is maintained, and in no event shall a sign project closer than two (2) feet to the curb line.

- SUPPLEMENT HISTORY TABLE

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- c. Maximum permitted size is fifty (50) square feet.
  - d. Maximum number of signs is one (1) per business use.
  - e. A projecting sign shall not be permitted on the same wall of a building or structure as a wall sign unless the wall sign is animated or there is more than one (1) use per building.
- (10) Public (any sign intended primarily to promote items of general interest to the community or for traffic control and the like). As required or permitted by statute, ordinance or regulation.
- (11) Temporary (see temporary signs in Paragraph 16-12-50(5) of this Chapter).
- a. Only the following types of such signs shall be permitted:
    - 1. Construction sign of a maximum size of thirty-two (32) square feet.
    - 2. Real estate auction or garage sale sign of maximum size of four (4) square feet.
  - b. Maximum permitted number is one (1) per street footage per lot.
  - c. Minimum setback from the property line is one (1) foot.
  - d. All such signs must be located on private property and only with the consent of the property owner.
  - e. All such signs must be removed within ten (10) days following the event described.

(Ord. 789-08 §1)

**Sec. 16-12-80. Enforcement.**

- (a) Authority to inspect. All signs for which a permit is required shall be inspected after completion of construction, alteration, replacement or the like by the Building Official, and he or she shall be permitted to enter private property for such purpose.
- (b) Maintenance required. All signs shall be maintained in a workmanlike manner and in good repair so as not to be distracting, unattractive, dangerous or a public nuisance and effectively serve the purpose for which they are intended.
- (c) Noncomplying signs; notice of violation. Notice shall be given to the sign owner that a sign is not in compliance with the provisions of this Article and directing the sign owner to bring the sign into compliance or remove the same within ten (10) days of the notice.
- (d) Contents of notice. The notice shall contain the following information:
  - (1) A concise statement of the action required to be taken and a citation to the section of this Code requiring such action.
  - (2) A statement of the time within which such action shall be completed.
  - (3) A statement that, if the action is not completed within the required time, the City will cause the work to be done at the sign owner's expense, and the costs thereof, in addition to being an individual liability of the sign owner, shall become a lien upon the property and, if not paid when due, shall be certified to the County Treasurer for collection in the same manner as real property taxes.
  - (4) A statement that failure to perform the required action constitutes a violation of this Code and could subject the sign owner to a fine of up to three hundred dollars (\$300.00) for each day that a violation continues, in addition to any sums charged for work done.
- (e) Manner of service. The notice shall be delivered personally to the sign owner or to any member of his or her family over the age of eighteen (18), at his or her usual place of residence or business. If

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the sign owner does not reside within the City, service may be made by mailing the notice to the sign owner at the last known address by certified mail, postage prepaid. Such notice shall be deemed complete when placed in the United States mail. When service is by mail, an additional three (3) days shall be added to the minimum period of time within which the prescribed work shall be completed. If the sign owner cannot be found after reasonable diligence, then service may be completed by posting the premises, in which case no fine shall be imposed and the minimum time within which work must be completed shall be thirty (30) days.

- (f) Any sums assessed against a sign owner shall bear interest at the rate of ten percent (10%) per annum from the due date of such assessment until finally paid.
- (g) All remedies provided for hereunder are cumulative and independent of one another. No waiver of any action hereunder shall constitute a waiver of any subsequent action hereunder.

(Ord. 789-08 §1)

**Sec. 16-12-90. Appeal from decision of administrative official.**

- (a) A denial of a permit under this Article or an order issued under this Article by an administrative official may be appealed to the Board of Adjustment.
- (b) All appeals to the Board of Adjustment shall be in accordance with the procedures provided in Subsection 16-2-40(h) of this Chapter.

(Ord. 789-08 §1)

**ARTICLE 13 Floodplains**

Division 1. - In General

Division 2. - Prevention of Flood Damage

Division 3. - Flood Hazard Reduction

***Division 1. In General***

[Sec. 16-13-10. Implementation of federal program.](#)

[Sec. 16-13-20. Duties of City officials.](#)

**Sec. 16-13-10. Implementation of federal program.**

The City Council shall adopt and maintain adequate land use control measures, including enforcement mechanisms, and otherwise act as reasonably necessary to implement the objectives and purposes of Section 1910 of the National Flood Insurance Program Regulations.

(Ord. 789-08 §1)

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**Sec. 16-13-20. Duties of City officials.**

- (a) Duties of City Administrator. The City Administrator shall:
- (1) Delineate or assist the Federal Administrator, as requested, in delineating the limits of areas of local special flood hazards on maps of sufficient scale to identify the location of building sites;
  - (2) Provide information as requested by the Federal Administrator concerning use and occupancy of the floodplain;
  - (3) Cooperate with other public and private entities who wish to study, survey, map and identify floodplain areas within the City and cooperate with neighboring communities concerning the management of adjoining floodplain areas to mitigate the aggravation of existing flood hazards; and
  - (4) Submit annual reports to the Federal Administrator, in accordance with applicable federal requirements, concerning the City's efforts during the past year in the development and implementation of floodplain management measures.
- (b) Duties of Director. The Director shall:
- (1) Review all building permit applications for new construction or substantial improvements to determine whether such building will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement on such site, including prefabricated and manufactured homes, must:
    - a. Be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure;
    - b. Use construction materials and utility equipment that are resistant to flood damage; and
    - c. Use construction methods and practices that will minimize flood damage.
  - (2) Review subdivision applications and other proposed new development to assure that:
    - a. All construction activity and proposed structures are consistent with the need to minimize flood damage;
    - b. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage; and
    - c. Adequate drainage is provided to reduce exposure to flood hazards.
  - (3) Require new or replacement water supply systems and sanitary sewer systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water, and require on-site waste disposal systems to be located to avoid impairment and contamination of such systems during flooding; and
  - (4) Maintain a record of elevation, in relation to mean sea level, of the lowest floor (including basement) of all new or substantially improved structures located in the special flood hazard areas, and provide such records to the public upon request. If the lowest floor is below grade on one (1) or more sides, the elevation of the floor immediately above must also be recorded.

(Ord. 789-08 §1)

***Division 2. Prevention of Flood Damage***

[Sec. 16-13-110. Statutory authorization.](#)

[Sec. 16-13-120. Findings of fact.](#)

[Sec. 16-13-130. Statement of purpose.](#)

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[Sec. 16-13-140. Methods of reducing flood losses.](#)

[Sec. 16-13-150. Lands to which regulations apply.](#)

[Sec. 16-13-160. Basis for establishing areas of special flood hazard.](#)

[Sec. 16-13-170. Compliance.](#)

[Sec. 16-13-180. Interpretation.](#)

[Sec. 16-13-190. Warning and disclaimer of liability.](#)

[Sec. 16-13-200. Establishment of development permit.](#)

[Sec. 16-13-210. Designation of Floodplain Administrator.](#)

[Sec. 16-13-220. Duties and responsibilities of Floodplain Administrator.](#)

[Sec. 16-13-230. Appeal from decision of administrative official.](#)

[Sec. 16-13-240. Variance procedure; appeals.](#)

**Sec. 16-13-110. Statutory authorization.**

Units of local government have been authorized by the State Legislature to adopt regulations designed to promote the public health, safety and welfare of its citizenry, as noted in Section 16-1-40 of this Chapter. This Article is adopted pursuant to that authority to further those objectives.

(Ord. 789-08 §1)

**Sec. 16-13-120. Findings of fact.**

- (a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in the areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Ord. 789-08 §1)

**Sec. 16-13-130. Statement of purpose.**

It is the purpose of this Article to promote the public health, safety and welfare by minimizing losses due to flood conditions in specific areas through regulations designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;



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- (3) Minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;
- (6) Assist in maintaining a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

(Ord. 789-08 §1)

**Sec. 16-13-140. Methods of reducing flood losses.**

In order to accomplish its purposes, this Article includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion, flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 789-08 §1)

**Sec. 16-13-150. Lands to which regulations apply.**

This Article shall apply to all areas of special flood hazard within the jurisdiction of the City.

(Ord. 789-08 §1)

**Sec. 16-13-160. Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled The Flood Insurance Study for the City of Brush, dated October 13, 1981, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this Code. The Flood Insurance Study and FIRM are on file at the City Hall.

(Ord. 789-08 §1)

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**Sec. 16-13-170. Compliance.**

No structure or land shall be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable flood regulations.

(Ord. 789-08 §1)

**Sec. 16-13-180. Interpretation.**

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 789-08 §1)

**Sec. 16-13-190. Warning and disclaimer of liability.**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

(Ord. 789-08 §1)

**Sec. 16-13-200. Establishment of development permit.**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established by Section 16-13-160 above. Application for a development permit shall be made on forms furnished by the Director and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials and drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect licensed in the State that the floodproofing methods for any nonresidential structure meet the floodproofing criteria set forth in this Article; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 789-08 §1)

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**Sec. 16-13-210. Designation of Floodplain Administrator.**

The Director shall be the designated Floodplain Administrator and shall administer and implement this Article and shall act on development permit applications as provided by the Process Chart set forth in Section 16-3-20 of this Chapter.

(Ord. 789-08 §1)

**Sec. 16-13-220. Duties and responsibilities of Floodplain Administrator.**

Duties of the Floodplain Administrator shall include, but not be limited to:

- (1) Permit review:
  - a. Review all development permits to determine that the permit requirements of this Article have been satisfied.
  - b. Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required.
  - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of this Article are met.
- (2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 16-13-160 above, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A of the City's FIRM are administered in accordance with Section 16-13-360 of this Article.
- (3) Obtain and maintain the following information:
  - a. The actual elevation, in relation to mean sea level, of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  - b. For all new or substantially improved floodproofed structures:
    1. The actual elevation, in relation to mean sea level, to which the structure has been floodproofed;
    2. The floodproofing certifications required by Subsection 16-13-200(c) above.
  - c. All records pertaining to the provisions of this Article and make such records available for public inspection.
- (4) Monitor the alteration or relocation of watercourses by:
  - a. Notifying adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
  - b. Requiring that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Interpret FIRM boundaries. Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a

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conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary may appeal such interpretation pursuant to Section 16-13-240 below.

(Ord. 789-08 §1)

**Sec. 16-13-230. Appeal from decision of administrative official.**

All initial determinations regarding the interpretation and applicability of this Article shall be made by the Director. Decisions of the Director may be appealed as provided in Section 16-13-240 below.

(Ord. 789-08 §1)

**Sec. 16-13-240. Variance procedure; appeals.**

- (a) The Board of Adjustment shall hear and decide all requests for variances from the requirements of this Article and all appeals from decisions of the Director under this Article. Appeals and variance requests shall be considered in accordance with the process outlined by Subsection 16-2-40(h) of this Chapter.
- (b) In considering variance applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity of the facility to a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater and the effects of wave action, if applicable, expected at the site; and
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (c) Upon consideration of the factors listed in Subsection (b) above and the purposes of this Article, the Board of Adjustment may attach such conditions to the granting of a variance as it deems necessary to further the purpose of this Article.
- (d) The Floodplain Administrator shall maintain the records of all variance applications, including technical information, and report any granted variances to the Federal Emergency Management Agency.
- (e) Conditions for variances:

- SUPPLEMENT HISTORY TABLE

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- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the factors listed under Subsection (b) above have been fully considered. As the lot size increases above one-half (½) acre, the technical justifications required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard for the procedures set forth in the remainder of this Section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or requirements.
- (f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 789-08 §1)

***Division 3. Flood Hazard Reduction***

[Sec. 16-13-310. General standards.](#)

[Sec. 16-13-320. Anchoring.](#)

[Sec. 16-13-330. Construction materials/methods.](#)

[Sec. 16-13-340. Utilities.](#)

[Sec. 16-13-350. Subdivision proposal.](#)

[Sec. 16-13-360. Specific standards.](#)

[Sec. 16-13-370. Floodways.](#)

**Sec. 16-13-310. General standards.**

In all areas of special flood hazards, the standards contained in this Division are required.

(Ord. 789-08 §1)

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**Sec. 16-13-320. Anchoring.**

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and to withstand hydrodynamic loads.
- (b) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:
  - (1) Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.
  - (2) Frame ties be provided at each corner of the home, with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.

(Ord. 789-08 §1)

**Sec. 16-13-330. Construction materials/methods.**

- (a) All new construction and substantial improvements (see definition of substantial improvement in Article 14 of this Chapter) shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (c) All new construction and substantial improvements (see definition of substantial improvement in Article 14) shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. 789-08 §1)

**Sec. 16-13-340. Utilities.**

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- (c) On-site waste disposal systems shall be located to avoid impairment to, or contamination from, such systems during flooding.

(Ord. 789-08 §1)

**Sec. 16-13-350. Subdivision proposal.**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.

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- (b) All subdivision proposals shall have public utilities and facilities, such as sewer, gas/electrical and water systems, located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.

(Ord. 789-08 §1)

**Sec. 16-13-360. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 16-13-160 or Subsection 16-13-220(b) of this Article, the following provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to no less than twelve (12) inches above the base flood elevation of the site.
- (2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:
  - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Be certified by a registered professional engineer or architect licensed in the State that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Paragraph. Such certifications shall be provided to the official as set forth in Subparagraph 16-13-220(3)b. of this Article.
- (3) Openings in enclosures below the lowest floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect licensed in the State or must meet or exceed the following criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding shall be provided;
  - b. The bottom of all openings shall be no higher than one (1) foot above grade; and
  - c. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (4) Manufactured homes:
  - a. Manufactured homes shall be anchored in accordance with Subsection 16-13-320(b) above.
  - b. All new manufactured homes or those to be substantially improved shall conform to the following requirements:
    - 1) That manufactured homes that are placed or substantially improved on a site (a) outside of a manufactured home park or subdivision, (b) in an expansion to an

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existing manufactured home park or subdivision or (c) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- 2) That manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in Subparagraph 1) above shall be elevated so that either (a) the lowest floor of the manufactured home is at or above the base flood elevation, or (b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be anchored to an adequately anchored foundation system to resist flotation, securely collapse and lateral movement.
- (5) Recreational vehicles. All recreational vehicles shall either: (a) be on the site for fewer than one hundred eighty (180) consecutive days; (b) be fully licensed and ready for highway use; or (c) meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

(Ord. 789-08 §1)

**Sec. 16-13-370. Floodways.**

Areas of special flood hazard as established in Section 16-13-160 of this Article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) No encroachments, including fill, new construction, substantial improvements and other development, shall be permitted unless certification by a registered professional engineer or architect licensed in the State is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and
- (2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Division.

(Ord. 789-08 §1)

**ARTICLE 14 Definitions**

[Sec. 16-14-10. Usage.](#)

[Sec. 16-14-20. Words and terms.](#)

**Sec. 16-14-10. Usage.**

- (a) For the purposes of this Chapter and when not inconsistent with the context:
  - (1) Words used in the present tense include the future;



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- (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; and
  - (7) The particular controls the general.
- (b) Certain words and phrases are defined, and certain provisions shall be interpreted as herein set out, when not inconsistent with the context. The word building includes the word structure; the word person includes a firm, associates, corporation, partnership and natural person; the word used includes the words occupied, arranged, designed or intended to be used; the word construct includes the words erect, reconstruct, alter, move in and move upon.
- (c) For words, terms and phrases used in this Chapter that are not defined by this Article or elsewhere in this Code, the Director may consult secondary resources related to the planning profession, such as A Survey of Zoning Definitions - Planning Advisory Service Report Number 421, edited by Tracy Burrows, (American Planning Association, Chicago, Ill. 1989), and The New Illustrated Book of Development Definitions, by Harvey S. Moskowitz and Carl G. Lindbloom (Center for Urban Policy Research, Rutgers University, N.J. 1992), for technical words, terms and phrases; or Webster's Third New International Dictionary (Unabridged) (Merriam-Webster, Inc., Springfield, Mass. 1986), to determine the meaning of such words, terms or phrases.

(Ord. 789-08 §1)

**Sec. 16-14-20. Words and terms.**

Accessory structure or use means any use, building, structure or improvement which is conducted and operated in conjunction with a principal use and which constitutes only a clearly incidental or clearly insubstantial part of the total activity that takes place on a lot, or is commonly associated and integrally related with the principal use.

Adult business means a use of property where the principal use, or a significant or substantial accessory use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to sexual activities or anatomical areas. The term adult-oriented business includes, but is not limited to, bookstores, video stores, gift stores, cabarets, motels, hotels, theaters, nightclubs and similar establishments.

Alley means a minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Anatomical area means any of the following: less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Appeal means a request for review of the Director's interpretation of any provision of this Chapter or a request for a variance.

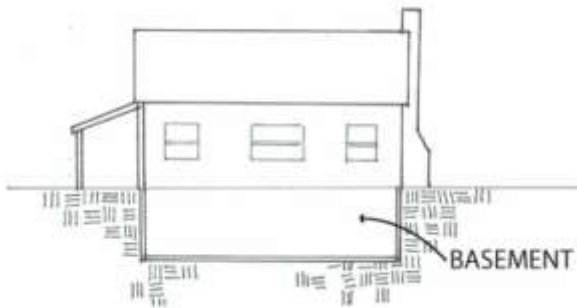
Applicant means the owner of land or his or her representative or any other person legally entitled to request an approval under this Chapter, including a tenant of property and the prospective purchase of property, where applicable.

Augmentation pond means a water reservoir designed and constructed for the purpose of replacing stream depletions caused from consumption of water from wells.

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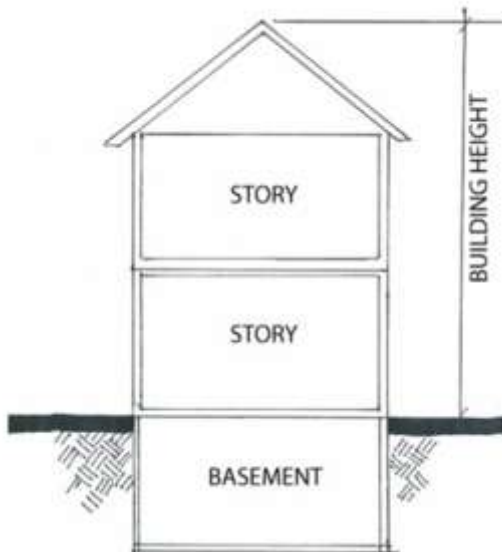
Basement means a story, wholly or partly underground, which, unless subdivided into rooms and used for tenant purposes, shall not be included as a story for the purpose of height measurement.



Bed and breakfast means a residential dwelling with a character other than a hotel or motel compatible with the neighborhood providing temporary lodging and breakfast daily for guests.

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

Building height means the vertical distance as measured from the average finished grade (see grade) at the building to the highest point of the roof surface exclusive of ventilators, pipes, spires, cupolas, chimneys or other appurtenances.



Child care center means a building, or part thereof, including the lot, devoted to the care and/or education of persons at a location away from home for less than twenty-four (24) hours per day during weekday working hours, and not including overnight accommodation or overnight sleeping. This definition encompasses facilities generally known as adult day care center, child care center, pre-school, kindergarten, nursery school and similar programs and facilities, but does not include family day care home. See definition of family day care home.

City means the City of Brush, Colorado.

City Administrator means the City Administrator of the City.

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City Clerk means the City Clerk of the City.

City Council means the City Council of the City.

City Engineer means the City Engineer of the City.

Commercial Mobile Radio System (CMRS) means all telecommunication devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation, within the range of frequencies from one hundred (100) KHz to three hundred (300) GHz, and operating as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, mounted on poles, other structures, light posts, power poles or buildings. CMRS facilities include radio, television, telephone and microwave towers or antennas for commercial transmission to consumers.

Common open space means that portion of land within a subdivision or development that is shared by one (1) or more property owners for passive or active recreational purposes.

Comprehensive Plan means the Comprehensive Plan as adopted by the City, and which includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Confined Animal Feed Operation (CAFO) means a place where cattle, calves, sheep, swine, horses, mules, goats, fowl and other animals are corralled, penned, tethered or otherwise caused to remain in pens or corrals and where feeding is by other than grazing.

Crosswalk means a right-of-way dedicated to public use to facilitate pedestrian access through a subdivision block or across a public street.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Development agreement means a contract between an applicant and the City in connection with any discretionary development approval, including, without limitation, annexation, rezoning, subdivision and/or special use permit approval.

Director means the individual appointed by the City Administrator as the Assistant City Administrator, Building Inspector, Code Enforcement Official, Community Development Director, Floodplain Administrator or his or her designee.

Disposition means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land, an option to purchase an interest in subdivided land, a lease or an assignment of an interest in subdivided land or any other conveyance of an interest in subdivided land.

Dwelling, multiple-family means a building occupied by three (3) or more families living independently of each other but not including motels or hotels.

Dwelling, single-family means a building having accommodations for and occupied exclusively by one (1) family.

Dwelling, two-family means a building having accommodations for and occupied exclusively by two (2) families living independently of each other.

Dwelling unit means any structure or part thereof designed to be occupied as the living quarters of a family or housekeeping unit.

Easement means a right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

Family means a group of persons meeting the conditions in any subparagraph below. Notwithstanding any definition provided below, a family shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., unless related by blood, marriage, adoption or legal custody.

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- (1) A group of persons living together as a single dwelling unit who are related by blood, marriage or adoption, and a reasonable number of domestic servants.
- (2) A group of persons living together as a single dwelling or housekeeping unit and who share the use and cost of common facilities. This group of persons should generally exhibit the same characteristics of other families in the neighborhood in the use of neighborhood facilities and the amount of noise generated.
- (3) Four (4) or more persons living together as a single dwelling unit who are not related by blood, marriage, adoption or legal custody if the occupants are handicapped persons as defined in Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by Section 24-34-301, C.R.S.
- (4) A foster family with any number of unrelated foster children who have been adjudicated delinquent or delinquent and neglected pursuant to the Colorado Children's Code, Title 19, C.R.S., and placed with the foster family by the State or its agent.

Family day care home means an occupied dwelling in which a person provides day care for children other than his or her own family and the children of close relatives. Such care in a family day care home is limited to that care given for less than twenty four (24) hours per day during weekday working hours. A small family day care home is limited to six (6) or fewer children and a large family day care home is limited to twelve (12) or fewer children, including children living in the home and children of close relatives cared for in the home, subject to the Child Care Licensing Act, Section 26-6-101, et seq., C.R.S. See definition of child care center.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood, base means the flood having a one-percent chance of being equaled or exceeded in any given year.

Flood fringe means those portions of the floodplain lying outside the floodway.

Flood hazard, area of special means the land in the floodplain within the City subject to a one-percent or greater chance of flooding in any given year.

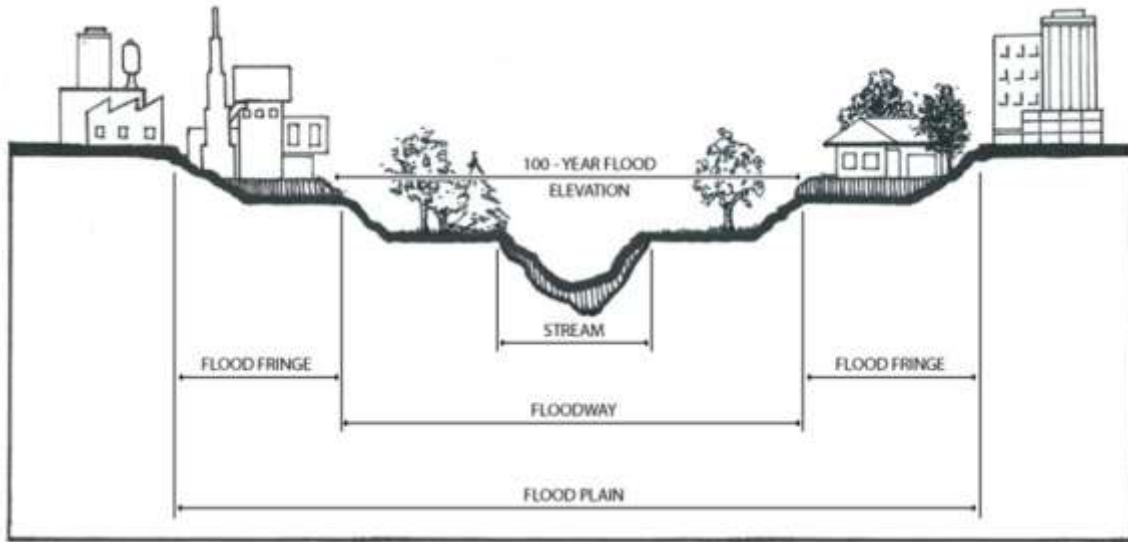
Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the City.

Flood insurance study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain means the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the flood fringe.

Floodway means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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Floor, lowest means the lowest floor of the lowest enclosed area (including basement) of a building or structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Article 13 of this Chapter.

Grade is determined by averaging the finished ground level of the center of each side of the building. When a building side is within fifteen (15) feet of a sidewalk, the grade used for that side shall be measured at a point at the sidewalk which is perpendicular to the center of the building side.

Gross floor area means the total areas of a building inclusive of entrances, hallways, stairways and other accessory areas used for ingress and egress.

Home business means a home occupation that allows for more intensive uses by special uses permit, typically involving the need for nonresident employees and additional off-street parking.

Home occupation means a use conducted principally within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof; provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing on the premises.

Improvements means street grading, street surfacing and paving, curb and gutters, street lights, street signs, sidewalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities or other such installations as designated by the City Council.

Kennel means a lot or premises on which four (4) or more dogs or cats at least four (4) months of age are kept, possessed or harbored, whether or not for economic gain, or a lot or premises on which more than one (1) litter is born in any twelve-month period.

Land use district or district means a section of the City for which regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

Land use map, official means the official land use map as adopted by the City, graphically identifying the location of land use districts.

Lot means a portion of a subdivision intended as a unit for transfer of property ownership or for development.

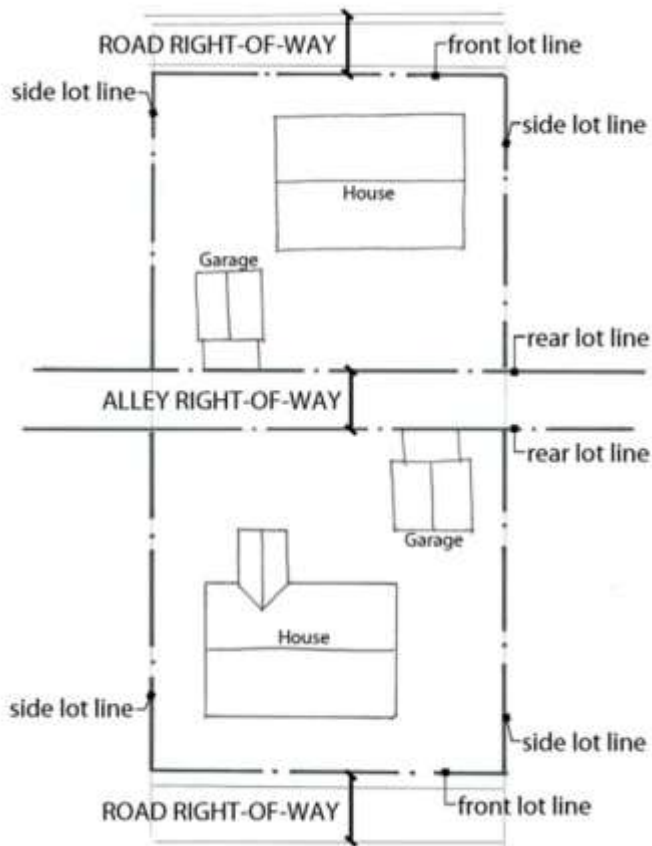
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Lot area means the total area within the property lines for the lot, excluding adjacent rights-of-way.

Lot, depth of means the mean horizontal distance between the front and rear lot lines.

Lot, double frontage means a lot having a frontage on two (2) nonintersecting streets.

Lot line, also property line, means the boundaries of a legally described land parcel.



Lot, reverse frontage means a lot which extends continuously between two (2) parallel (or approximately parallel) streets bounding a block and is abutted along one (1) street frontage by an easement for screen planting. A block containing reverse frontage lots is composed of one (1) tier of lots rather than the standard two (2) tiers.

Lot, width of means the average distance between side lot lines which are neither front nor rear lot lines.

Manufactured home means a single-family dwelling which is partially or entirely manufactured in a factory; is not less than twenty-four (24) feet in width and thirty-six (36) feet in length; is installed on an engineered permanent perimeter foundation; has brick, wood or cosmetically equivalent exterior siding and a pitched roof; conforms to the City Building Code; and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq., as amended.

Mobile home means any vehicle or similar portable structure originally constructed to have no foundation other than wheels, jacks or skirtings and so designed or constructed to permit occupancy as living or sleeping quarters.

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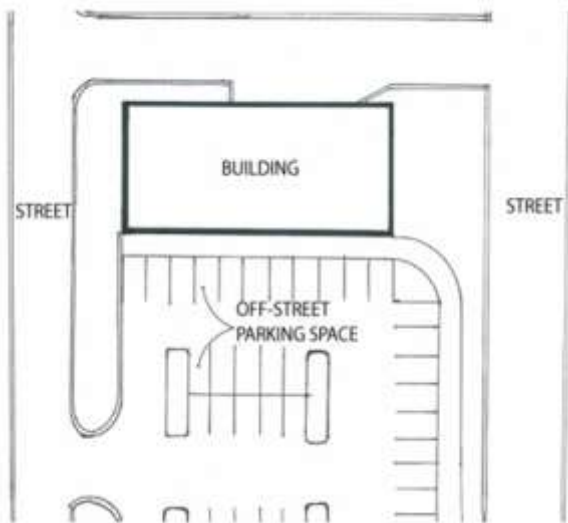
Mobile home park means a tract of land which has been developed with all necessary facilities and services in accordance with a development plan meeting all legal requirements, and which is intended for the purpose of providing a site for three (3) or more manufactured homes, manufactured dwellings or mobile homes for human habitation, either free of charge or for revenue purposes, including any building, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park.

Mobile home space means a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

Nonconforming building or structure means a building or structure legally built prior to the effective date of this Chapter or any amendment thereto, which does not conform with the regulations of the district in which it is located.

Nonconforming use means land or a building lawfully established prior to the effective date of this Chapter or any amendment thereto, for a use which does not conform with the regulations of the district in which it is located.

Off-street parking space means the space required to park one (1) passenger vehicle outside of the public right-of-way.



Parcel means a contiguous quantity of land held under common ownership.

Patio home means a single-family detached or attached structure in a planned subdivision, with exterior maintenance and landscaping provided through an association fee.

Permitted use or use by right means a use which is listed as a use permitted by right in any given land use district in this Chapter. Uses permitted by right are not required to show need for their location.

Plan, sketch means the map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of Article 9 of this Chapter to evaluate feasibility and design characteristics at an early stage in the planning of a subdivision.

Planned Unit Development (PUD) means a development of land in a manner which allows, in conformance with Article 8 of this Chapter, a variety of uses for which land may be developed in order to allow for uniqueness and overall flexibility of development in special instances, as may be approved by the City Council.

Planning Commission means the Planning Commission of the City, also known as the Planning and Land use Committee.

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Plat means a map of land thereon described and prepared as an instrument for recording which depicts the boundaries of real estate interests.

Plat, final means a map or maps of certain described land prepared by a Colorado registered surveyor in accordance with Article 9 of this Chapter and which is to be used as an instrument for the recording of real estate interests.

Plat, preliminary means the preliminary map of a proposed subdivision, drawn and submitted in accordance with the requirements of Article 9 of this Chapter.

Primary or principal use means the main purpose for which a building, structure or lot is designed, arranged or intended, or for which it may be occupied or maintained under this Chapter. The use of any other building, structure and/or land on the same lot and incidental or supplementary thereto and permitted under this Chapter shall be considered an accessory use.

Public hearing means a legally advertised meeting held by the Planning Commission, City Council or Board of Adjustment, at which time opinions may be voiced concerning the subject of the hearing and is considered a quasi-judicial matter.

Recreational vehicle means a vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Recreational vehicle park means a tract of land which has been developed with all necessary facilities in accordance with a development plan and which is for short-term occupancy by recreational vehicles only. It shall include, but not be limited to, travel trailers, pick-up coaches, motor homes, camping trailers and tents.

Resubdivision means the changing of any existing lot or lots of any subdivision plat previously recorded.

Rezoning means an amendment to the official land use map to effect a change in the nature, density or intensity of uses allowed on a specific parcel or land area.

Right-of-way means the entire dedicated tract or strip of land, a portion of which is to be used by the public for circulation or utilities.

Rooming house means a building other than a hotel where, for compensation and by pre-arrangement for definite periods, lodging or lodging and meals are provided for three (3) or more persons but not exceeding twenty (20) persons; provided that such persons are not members of the owner or operator's immediate family.

Screening or buffering means protecting an area of land from the adverse visual and audible effects of another area.

Setback means the distance extending across the full width or depth of the lot between the designated lot line and the nearest line or point of the building.

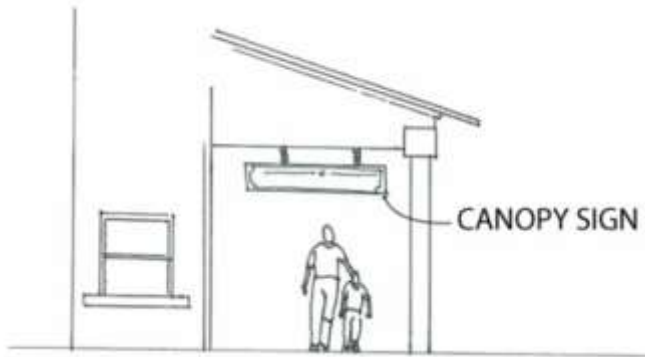
Sign means any written announcement, declaration, demonstration, display, illustration, insignia or illumination used to identify a premises or to advertise or promote the interests of any person or commercial activity which is displayed or placed out of doors in view of the general public, and shall include every detached sign or billboard and every sign attached to or forming a component part of any marquee, canopy, awning, street clock, pole, parked vehicle or other object, whether stationary or movable.

Sign, animated means any sign which includes action or motion.

Sign, canopy means a sign attached to or constructed in or on a building face over a public right-of-way and constructed of some durable materials, such as metal, glass or plastic.



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Sign face means the surface of a sign upon, against or through which the message is displayed or illustrated.

Sign, freestanding means a sign erected on a freestanding frame, mast or pole, and not attached to any building.

Sign, home occupation is a sign identifying a use conducted principally within a family dwelling and carried on by the inhabitants thereof.

Sign, legal nonconforming means any sign which is lawfully erected and maintained prior to the enactment of this Chapter.

Sign, projecting means a sign, other than a wall sign, which is attached to and projects from a structural building face.

Sign, wall means a sign attached to or erected against a wall of a building, with a face parallel to the building wall, and extending not more than one (1) foot therefrom.

Site specific development plan means a plan which has been submitted to the City describing with reasonable certainty the type and intensity of use for a specific parcel of property for which the landowner requests the creation of vested rights. Such a plan may be in the form of, but need not be limited to, any of the following final plans or approvals: a planned unit development, a subdivision plat, a specially planned area, a planned building group, a general submission plan, a conditional or special use plan, a development agreement or any other final land use approval designation. To result in the creation of vested property rights, a site specific development plan must be approved by City Council after conducting a public hearing thereon at the final approval step, irrespective of its title, which occurs prior to building permit application.

Special use (formerly special exception use) means a use allowed in the indicated land use district only with permission by the City Council.

Story means that portion of a building included between the surface of any floor and surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the story.

Street means any street, avenue, boulevard, road, lane, parkway, viaduct, alley 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 heretofore 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.

Street, arterial means a street designed to carry greater volumes of traffic at higher speeds or longer distances, generally between major highways.

Street, collector means a street designed to carry traffic between areas of concentrated population or activity, generally leading to arterial streets or major highways.

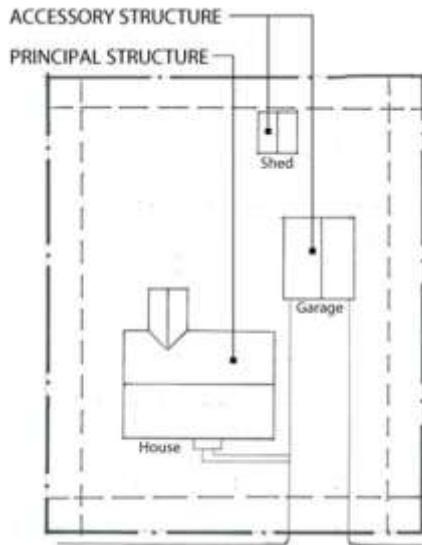
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Structure means anything constructed or erected on the ground or attached to the ground.

Structure, accessory means a building or structure which constitutes only a clearly incidental or clearly insubstantial use of the lot on which said building or structure is situated.

Structure, principal means a building or structure in which is conducted the main or primary use of the lot on which said building or structure is situated. Where a part of an accessory structure is attached to the principal structure in a substantial manner, such as by a roof, such accessory structure shall be considered a part of the principal structure.



Structurally altered means changes which increase, extend or enlarge the building, convert the existing building into a different structure or affect the form or character of an existing building or structural quality.

Subdivider or developer means any person, firm, partnership, joint venture, association or corporation who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision, site specific development plan or planned unit development.

Subdivision or subdivided land means any single parcel of land in the City which is divided into two (2) or more parcels, separate interests or interests in common. Unless the method of disposition is adopted for the purpose of evading this Article, the terms subdivision and subdivision land shall not apply to any division of land which:

- (1) Creates parcels of land such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest;
- (2) Is created by order of any court in this State or by operation of law;
- (3) Is created by a lien, mortgage, deed of trust or any other security instrument;
- (4) Is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
- (5) Creates cemetery lots;
- (6) Creates interests in oil, gas and other minerals or water which are now or hereafter severed from the surface ownership of real property; or

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- (7) Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this Subsection as only one (1) interest.

Subdivision Improvements Agreement (SIA) means one (1) or more contracts or agreements that include security arrangements which may be accepted by the City to secure the construction of such public improvements within the subdivision and shall include collateral, such as, but not limited to, performance or property bonds, private or public escrow agreements, loan commitments, assignments of receivables, liens on property, deposit of certified funds, letters of credit or other similar surety agreements.

Substantial damage means, for the purpose of Article 13 of this Chapter, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement means, for the purpose of Article 13 of this Chapter, any reconstruction, rehabilitation, addition to or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Temporary use means a use, building or structure which is established for a fixed period of time or is seasonal in nature and is consistent and compatible with the purpose, intent and land uses authorized within the land use district in which such temporary use is located.

Usable open space means open area other than a yard designed and developed for uses, including but not limited to recreation, courts, gardens, parks and walkways. The term shall not include space devoted to streets and parking and loading areas.

Wind Energy Conversion System (WECS) means an electrical generating facility comprised of one (1) or more wind turbines and accessory facilities which operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on site or distributed into the electrical grid.

Variance means a grant of relief from the requirements of this Chapter, which permits development or construction in a manner that would otherwise be prohibited by this Chapter.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. Land use that is not part of a site specific development plan shall not result in the creation of a vested property right.

Vision clearance means a triangular space at the street corner of a corner lot, free from any kind of obstruction to vision.

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Yard means an open space on the same lot with a building, occupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, front means a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the front lot line and the front of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch.

Yard, rear means a yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building, including any projections to the steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side means a yard between the main building and the side line of the lot, being the minimum horizontal distance between the building and the side lot line and extending from the front lot line to the rear lot line.

(Ord. 789-08 §1; Ord. 827-14 §1)

**APPENDIX 16-A FORMS OF CERTIFICATE**

**SURVEYOR'S CERTIFICATE**

I, \_\_\_\_\_, a duly registered land surveyor in the State of Colorado, do hereby certify that this plat of \_\_\_\_\_ truly and correctly represents the results of a survey made by me or under my direct supervision.

\_\_\_\_\_  
Surveyor  
(Surveyor's stamp shall appear with this certificate.)

**PLANNING COMMISSION CERTIFICATE**

Recommends approval this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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City Planning Commission, Brush, Colorado

\_\_\_\_\_  
Chairman

CITY COUNCIL'S CERTIFICATE

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the City Council, Brush, Colorado. This approval does not guarantee the size or soil or flooding conditions of any lot shown hereon such that a building permit shall be issued. This approval is with the understanding that all expenses involving necessary improvements for all utility services, paving, grading, landscaping, curbs, gutters, street lights, street signs and sidewalks shall be financed by others and not the City of Brush.

\_\_\_\_\_  
Mayor

Attest:  
City Clerk

\_\_\_\_\_

CITY CLERK'S CERTIFICATE

State \_\_\_\_\_ of \_\_\_\_\_ Colorado )  
County of Morgan ) ss.

I hereby certify that this instrument was filed in my office at \_\_\_\_\_ o'clock, \_\_\_\_\_, 20\_\_\_\_\_, and is duly recorded.

\_\_\_\_\_  
City Clerk

COUNTY CLERK & RECORDER'S CERTIFICATE

State \_\_\_\_\_ of \_\_\_\_\_ Colorado )  
County of Morgan ) ss.

I hereby certify that this instrument was filed in my office at \_\_\_\_\_ o'clock, \_\_\_\_\_, 20\_\_\_\_\_, and is duly recorded.

\_\_\_\_\_  
County Clerk and Recorder

\_\_\_\_\_  
Deputy

(Ord. 789-08 §1)

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**APPENDIX 16-B CITY OF BRUSH, COLORADO  
SUBDIVISION IMPROVEMENTS AGREEMENT  
FOR THE \_\_\_\_\_ PROJECT**

THIS AGREEMENT is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between \_\_\_\_\_, whose address is \_\_\_\_\_, sometimes hereinafter referred to as "Owner," and the City of Brush, a municipal corporation of the State of Colorado, the address of which is Box 363, Brush, Colorado 80723, sometimes hereinafter referred to as "Brush" or "City," together referred to as "the Parties."

WITNESSETH:

WHEREAS, Owner is the owner of certain real property located within Brush and described in Exhibit A attached hereto, and Owner has submitted an application for development of said property known as \_\_\_\_\_ (hereinafter, the "Project"); and

WHEREAS, as a condition of approval of the Project, certain Public Improvements (sometimes hereinafter referred to as "Improvements") and certain private Improvements must be completed as more fully set forth on Exhibits B, C, D and E and the Engineering Plans attached hereto; and

WHEREAS, Brush and Owner recognize the need for Public Improvements and exactions and agree that said Public Improvements and exactions are roughly proportional to the need created by the Project; and

WHEREAS, Brush and Owner desire to evidence their agreement regarding the construction of said Improvements.

NOW, THEREFORE, the Parties agree as follows:

1. Legal Description . This Agreement pertains to Public Improvements to be constructed for the property legally described in Exhibit A attached hereto.
2. Exhibits and Inclusions . This Agreement includes the following Exhibits which are attached hereto and incorporated herein by this reference:
  - Exhibit A: Legal Description of the Project
  - Exhibit B: Improvements Quantities and Cost Estimates (including both Public Improvements and private improvements)
  - Exhibit C: Improvements Location Map, showing location of site improvements, including both Public Improvements and private improvements, as set forth in the Engineering Plans ("Engineering Plans") submitted to the City of Brush, dated \_\_\_\_\_, and included as a part of this Agreement.
  - Exhibit D: Landscaping Quantities and Costs Estimate
  - Exhibit E: Landscaping Improvements Location Map
  - Exhibit F: Declaration of Covenants, Conditions and Restrictions and/or Common Interest Community Declaration
  - Exhibit G: Site Plan of the Project
3. Public Improvements . It is the intent of this Agreement to provide for construction of the Public and private Improvements described in Exhibits B, C, D and E and the Engineering Plans. It is understood by the Parties that the descriptions of Improvements contained herein are general in nature, and that reasonable modifications of the scope, nature, costs and similar aspects of such Improvements may be necessary to secure approval of the final design of such Improvements.

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- a. The quantities and locations of the Improvements are based on information that was available at the time of development approval for the Project. Additional Improvements may be required upon submittal of a building permit application or as conditions change in the field. At that time, Owner shall be responsible for submitting revisions to its final plans as approved by Brush. The actual quantities and locations of the improvements will be determined by Brush based on the approved plans.
- b. Before beginning any construction of any Improvements, Owner shall submit final construction plans for all such Improvements. Owner agrees that construction of said Improvements shall conform to the requirements of the approved plans and permits.
4. Drainage Improvements . Owner has submitted a GRADING DRAINAGE PLAN, prepared by \_\_\_\_\_ dated \_\_\_\_\_, for drainage Public Improvements to City. Owner shall install and pay for all drainage Improvements described in a drainage study submitted by Owner and approved by Brush. No application to undertake construction in a public right-of-way or public easement shall be submitted or approved until the final drainage report and construction plans have been approved by Brush.
5. Rights-of-Way and Easements . It is the intent of the Parties by this Agreement to provide for all necessary rights-of-way and easements in conjunction with the installation of the Public Improvements required by Brush. Owner agrees to dedicate said rights-of-way and easements on or before recording of the final plat or equivalent final approval for the Project.
6. Street Name Signs . All public street name signs, traffic signs and street lights shall be supplied at Owner's expense. All signs shall conform to Brush's requirements. Owner shall install the signs at locations directed by Brush at no cost to Brush.
7. Owner's Costs . Except as otherwise expressly provided in this Agreement, Owner agrees to provide and pay for all labor, materials, tools, supplies, equipment, water, light, power, transportation, services and all other facilities and things necessary for the execution and satisfactory completion of the Improvements described herein in accordance with the plans, drawings and specifications for such Improvements as approved by Brush. The costs for which Owner shall be responsible shall also include the Project utilities study, grading drainage plan or report, survey, preliminary design, final design, construction, construction inspection, performance guarantee and the preparation of as-built drawings and reasonable administrative and legal expenses attributable to the Improvements to be constructed.
  - a. For purposes of this Agreement, the term "Improvements" shall include all Improvements set forth in Exhibits B, C, D, E and the Engineering Plans, and as shown or referenced on the final plat or other applicable final development approval document.
8. Completion . Except as otherwise expressly provided in this Agreement, all Improvements shall be completed in accordance with the plans, drawings and specifications, as approved by Brush, before any unit may be approved for occupancy or any lot may be sold. Owner agrees to pave all interior streets and off-street parking, public rights-of-way and, where applicable, pedestrian pathways, in conformity with the applicable final development approval and the time limits set forth in this Agreement. All Improvements shall be designed and constructed as set forth in this Agreement, in compliance with the ordinances, rules and regulations of Brush and in compliance with applicable state and federal law. All Improvements shall be completed within two (2) years after final Project approval by Brush, unless the Project is specifically approved as a phased project. Extension of time for completion of Improvements may be granted by Brush in writing for good cause shown. "Good cause" shall be determined by Brush.
9. Plans and Drawings . Owner will furnish Brush, free of charge, four (4) copies of all plans, drawings and specifications, including supplemental drawings, relating to Improvements, and a Mylar and three (3) copies showing them in their as-built locations within three (3) months of completion of the Improvements. Owner shall pay the cost of transferring and posting the "as-built" drawings to Brush's records. The plans, drawings and legal descriptions shall be prepared

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and certified by a qualified engineer in accordance with the requirements of Brush and prior to Brush's accepting the Improvements. If needed due to revisions an amended final plat showing all Improvements as existing shall be submitted within three (3) months of completion of the "as-built" drawings of the Improvements. The information required by this Paragraph shall be submitted in digital form acceptable to the City.

10. **Materials and Workmanship** . Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. Prior to procurement (unless waived by the City), Owner shall furnish Brush for its approval the name of the manufacturer of equipment and materials which it contemplates incorporating in the work. Owner shall also furnish information on capacities, efficiencies, sizes, etc., and other information as may be required by Brush. Samples shall be submitted for approval when requested. Equipment, materials and articles installed or used without Brush's approval shall be at the risk of subsequent rejection.
11. **Permits and Easements** . Owner shall furnish all land boundary surveys. Permits, licenses and rights-of-way of a temporary nature necessary for the construction of Improvements shall be secured and paid for by Owner. Permits, licenses and easements of a permanent nature shall also be secured and paid for by Owner.
12. **Protection** . Owner, at its expense, shall continuously maintain adequate protection of all Improvements and adjacent properties from damage prior to acceptance by Brush and shall protect Brush's property from injury and loss arising in connection with this Agreement. Owner shall make good any such damage, injury or loss except such as may be caused directly by authorized agents or employees of Brush. Owner shall adequately protect adjacent property and shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority or local conditions.
13. **Indemnification** . Owner hereby expressly binds itself to indemnify and save harmless Brush and its officers and employees against all suits or actions of every kind and nature brought, or which may be brought, against them or any of them for, or on account of, any injury or damage received or sustained by any person, firm or corporation, or persons, firms or corporations, in connection with, or on account of, Owner's obligations under this Agreement or by, or in consequence of, any negligence in connection with same or on account of the use of any improper or defective materials or on account of any poor workmanship or on account of any act or commission or omission of Owner or its agents, servants or employees, or for any cause arising out of the performance of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement. The Parties acknowledge that provisions of this Section are not intended to waive any of the rights and defenses afforded the City under the Colorado Governmental Immunity Act (Section 24-10-101, et seq., C.R.S.).
14. **Work Specifications** . All work done under this Agreement shall be done to the lines, grades and elevations shown on the plans, drawings and specifications approved by Brush. Owner shall keep Brush informed, a reasonable time in advance, of the times and places at which it wishes to undertake construction, in order that lines and grades may be furnished and necessary measurements for record may be made with a minimum of inconvenience to Brush and of delay to Owner. Any work done without being properly located and established by base lines, offset stakes, benchmarks or other basic reference points located, established or checked by Brush may be ordered removed and replaced at Owner's cost and expense. All stakes, bench marks and other survey points shall be preserved by Owner. In case of their destruction by Owner or its employees, they will be replaced at Owner's expense.
15. **Inspections** . The Director of Community Development of Brush ("Director") shall be designated by Brush to exercise authority on its behalf under this Agreement and to see that this Agreement is performed according to its terms. Work under this Agreement may, without cost or claim against Brush, be suspended by the Director for substantial cause.



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- a. The Director shall, within a reasonable time after their presentation to him or her, make decisions in writing on all claims of Owner and on all other matters relating to the execution and progress of the work or the interpretation of this Agreement, the plan, drawings and specifications. All such decisions of the Director shall be final.
  - b. The Director shall make all determinations of amounts and quantities of work performed hereunder. To assist in this work, Owner shall make available for inspection any records kept by Owner.
  - c. The Director and his or her authorized representatives shall have free access to the work at all times, and Owner shall furnish them with facilities for ascertaining whether the work being performed, or the work which has been completed, is in accordance with the requirements of the Agreement.
  - d. The Director will make periodic observations of construction (sometimes commonly referred to as "supervision"). The purpose of these observations and construction checking is to determine the progress of the work and to see if the work is being performed in accordance with the plans, drawings and specifications. He or she will in no way be responsible for how the work is performed, safety in, on or about the job site, methods of performance, or timeliness in the performance of the work.
  - e. Inspections may extend to all or any part of the work and to the preparation or manufacture of the materials to be used. The Director will not be authorized to alter the provisions of this Agreement or any specifications or to act as foreman for Owner. The Director will have authority to reject defective material and to suspend any work that is being done improperly, subject to the final decision of Brush.
  - f. Prior to commencement of construction, Owner shall designate a representative with authority to speak for Owner with whom the City's Director shall communicate on matters provided for in this Paragraph.
  - g. Owner agrees to pay to Brush a reasonable fee for the examination of plans and the interim and final on-site inspections of the work, not to exceed the reasonable fees normally charged in Brush for similar examinations and inspections.
16. Quality of Work . If substandard material, not conforming to the requirements of the plans, drawings and specifications as approved by Brush, has been delivered to the Project or has been incorporated in the work, or if work shall have been performed of inferior quality, then such material or work shall be considered as defective and shall be removed and replaced as directed by the Director at the expense of Owner.
- a. All materials shall be subject to examination and testing at any time during manufacture. The right is reserved to reject defective materials during manufacture or before they have been incorporated into the work. If Owner fails to replace rejected materials, Brush may replace them or correct defective work and charge the cost thereof to Owner. Any failure to earlier detect defective material or workmanship shall not impair Brush's right to a finally completed project.
  - b. If the specifications, the Director's instructions or laws of any public authority require any work to be specially tested or approved, Owner shall give the Director timely notice of its readiness for inspection, and if the inspection is by another authority than the Director, provide the date fixed for such inspection. Inspections by the Director shall be promptly made and, where practicable, at the source of supply. If any work should be covered up without approval or consent of the Director, it must, if required by the Director, be uncovered for examination at Owner's expense.
  - c. Reexamination of questioned work or materials may be ordered by the Director and, if so ordered, the work or materials must be uncovered by Owner. If such work or materials are found in accordance with this Agreement and the plans, drawings and specifications as

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approved by Brush, Brush shall pay the cost of reexamination, replacement and restoration of the site. If such work or materials are found not in accordance with this Agreement and the plans, drawings and specifications as approved by Brush, Owner shall pay such cost.

- d. The Director may order Owner to suspend work that may be damaged or endangered by climatic conditions. When adverse climatic conditions are unusual and extensive, an extension of time may be granted Owner by the Director.
17. Completion . When the work specified in this Agreement is completed and the final clean-up has been performed, Owner shall notify Brush that all work under the Agreement has been completed, and Brush will, within ten (10) working days after such notice, weather permitting, make the final inspection.
18. Water and Sewer . Owner shall pay all costs and expenses for construction of the water distribution and sewer collection systems installed to serve the Project. These costs shall include the utilities study, survey, preliminary design, final design, construction, construction inspection and the preparation of as-built drawings and reasonable administrative and legal expenses attributable to the water and sewer Improvements to be constructed.
19. Dedication . Owner shall dedicate all parks, open space, streets, easements and non-tributary groundwater as the same is required by Section 16-11-10 of the Brush Municipal Code.
20. Time for Completion, Lot Sales, Vested Rights . Owner agrees to complete the Public Improvements for each Phase within twenty-four (24) months of commencement of the Public Improvements for each Phase. The date of commencement shall be the date of providing security to City for the Public Improvements on each Phase. Owner agrees not to sell, negotiate to sell or accept reservation agreements for the sale of any lot in each Phase until Owner has provided plans for the Public Improvements and has provided the security required by this Agreement. This Section shall not be construed to restrict Owner's right to sell the Project to another developer as a bulk sale. Owner shall have the vested right to commence the Project for three (3) years from the date of this Agreement. Extension of time for completion of Public Improvements may be granted by Brush in writing for good cause shown. "Good cause" shall be determined by City.
21. Warranty and Guarantee . Owner hereby warrants and guarantees to Brush that the Improvements will be free of all defects in design, materials and construction, and will remain serviceable for a period of two (2) years from the date of final acceptance by the City of the last to be accepted of such Improvements. Such warranty period is generally set forth in Brush Municipal Code Chapter 16, Article 11.
  - a. Owner warrants that, upon acceptance of the Improvements by Brush, title to all work performed and materials and equipment furnished will pass to City free and clear of all liens, encumbrances, security interests, bailments, conditional sales contracts, claims and other agreements by which an interest or encumbrance is retained by any person or entity.
  - b. Owner warrants that all work performed and materials and equipment furnished are new; of good quality; free from all faults and defects not inherent to the quality required; in compliance with the Engineering Specifications unless otherwise specified; and were undamaged when installed. Any work, materials or equipment not complying with these requirements, including any unapproved substitutions, may be considered defective.
  - c. If, within two (2) years after the date of acceptance of the Improvements by Brush, any work, materials or equipment is found to be defective or deficient, Owner shall, without cost to City and in accordance with City's written instructions, correct it promptly after receipt of a written notice from the City.
  - d. The two-year warranty and guarantee period shall be extended for work first performed and materials and equipment furnished after acceptance of the affected Improvements by the City, including any remedial effort performed within the stated warranty and guarantee

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period. The warranty and guarantee period shall be two (2) years after the date of performance of the remedial work or furnishing of the materials and equipment, even though it may extend the duration of any warranty and guarantee beyond the initial two-year period.

- e. In any situation where defective or deficient work, materials or equipment affects the safety of persons or property and Owner has failed to respond in a timely manner, then, without prior written notice to Owner or prejudice to any other rights or remedies, the City may act immediately to prevent threatened damage, injury or loss. In addition, if Owner fails to promptly correct any defect or deficiency where notice has been given to Owner, the City may undertake the necessary remedial effort. In either event, Owner shall promptly reimburse City for all costs. Nothing contained herein shall impose any duty upon the City to act for Owner in an emergency.
  - f. All warranty and guarantee obligations shall survive termination of this Agreement and acceptance of the Improvements by the City. The establishment of all warranty and guarantee periods relate solely to Owner's obligation to correct the Work and shall not be construed to create a period of limitation for commencement of any legal proceedings.
22. Cost Estimate . In order to secure the construction and installation of the Improvements, Owner and Brush agree that the Parties shall estimate the costs of Improvements to be installed. The purpose of said cost estimates is only for determining the amount of security and may be revised from time to time to reflect actual costs. Owner agrees to pay the actual costs of the Improvements.
23. Security . Prior to recording of the final plat, or if no plat will be recorded, prior to having a permit issued to undertake construction in the public way, Owner shall furnish to Brush adequate performance bonds, letters of credit or other security, which bonds, letters of credit or other security shall be furnished, in a form acceptable to Brush, in an amount not to exceed one hundred twenty-five percent (125%) of the full amount of the estimated costs of all Improvements (other than landscaping) to be installed, as such security is more fully set forth in Chapter 16, Article 11 of the Brush Municipal Code. Brush shall release one hundred percent (100%) of the security upon completion of one hundred percent (100%) of the Public Improvements.
24. Purpose of Security . Security shall be furnished by Owner as a security for the faithful performance of this Agreement, for the payment of all persons performing labor and furnishing materials and for all other obligations incurred in connection with Improvements. If, during the continuance of this Agreement, the surety on a performance bond or issuer of a letter of credit becomes irresponsible, Brush shall have the right to require additional and sufficient security at Owner's expense which Owner shall furnish within ten (10) consecutive calendar days after written notice to do so.
- a. Where a surety bond is used as security, Owner and its surety shall be jointly responsible for the maintenance and satisfactory operation of all Improvements for a period of one (1) year following final acceptance of the specific Improvements finally accepted by Brush under this Agreement, and for the satisfactory repair or replacement of any work, material or equipment which becomes defective during this period; provided that any failure results directly or indirectly from faulty manufacturing or from faulty erection or improper handling of materials or equipment furnished or installed by Owner. Neither Owner nor its surety shall be liable under this Paragraph for any failure resulting from acts of Brush or a third party.
  - b. For purposes of this Agreement and financial security for the performance of Improvements, the term "Owner" shall include Owner, its agents and employees, including any contractor or subcontractor employed or engaged by Owner, or any agent or employee of Owner for the purposes of designing or constructing any Owner Improvement.

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25. Landscaping Security . To the degree Owner is required to install landscaping on public or private property as a condition of Project approval, Owner shall provide security for the installation and maintenance of such landscaping for two (2) years after planting, in the same manner, at the same time, and in the same amount as for all Improvements. Brush may draw upon this security in the event Owner fails to install or properly maintain landscaping. Upon completion and approval of landscape installation, Brush may approve release of fifty percent (50%) of the total landscape security. Such security may be further released by Brush after one (1) year to an amount not less than twenty-five percent (25%) of the original amount. The remaining security shall be released at the expiration of two (2) years from landscape installation.
26. Letter of Credit . If a letter of credit is used pursuant to Chapter 16, Article 11 of the Brush Municipal Code, it must provide that its issuer ("Issuer") agrees to the following terms and conditions:
  - a. Issuer guarantees that funds in the total amount provided for all Improvements, including landscaping Improvements, will be made available for the account of Owner for performance by Owner of all things required of Owner hereunder. Issuer further agrees that it will allow withdrawal or disbursement of portions of said funds only upon prior authorization from Brush, which authorization shall not be unreasonably withheld.
  - b. Upon the completion of the payments or other performances herein agreed to be made and performed by Owner, Issuer shall be released from any obligation regarding any funds still held by it pursuant hereto.
  - c. The following events shall be determined to be defaults by Owner:
    - (i) The failure by Owner to make any payment herein required to be made by Owner.
    - (ii) The failure of Owner to complete any of the Improvements or otherwise perform hereunder within the time herein set forth, or if not so set forth, within a reasonable period of time after written notice from Brush of such failure.
  - d. Upon the happening of any such events of default, Brush may complete any such performance on behalf of Owner within a reasonable time and in such manner, by contract with or without public letting, or otherwise, as it may deem advisable, and Issuer shall disburse out of said fund, upon Brush's request, the necessary money to pay for such performance or to make such required payments, including interest thereon; provided, however, that in no event shall Issuer be obligated to pay to Brush more than the total amount of the money ever held by it in said fund (less those amounts previously disbursed upon approval by Brush) by reason of the default of Owner in performance of the terms, covenants and conditions herein contained.
  - e. The procedures for performance by Brush and payment of the costs thereof by Issuer and for the making by Issuer of the payments required hereunder to be made by Owner shall apply whether there be one (1) or more defaults, or a succession of defaults on the part of Owner in performing the terms, covenants and conditions contained in this Agreement.
  - f. From time to time, as work to be performed and Improvements to be constructed hereunder progress, Owner may request that Brush inspect such work and Improvements as are completed and may submit to Brush the cost of such completed work and Improvements. When Brush is satisfied that the work and Improvements certified by Owner are complete, in accordance with the terms hereof, Brush will submit to Issuer its statement that it has no objection to the reduction of the letter of credit by the amount of the cost of the work performed and Improvements installed pursuant to the terms of this Agreement; provided, however, that in no event shall Brush's consent to the reduction be considered as an acceptance of such Improvements by Brush for maintenance purposes.

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- g. No letter of credit or performance bond drawn upon a bank or financial institution with any relationship to Owner or any principal, director, officer or shareholder of Owner (other than the relationship of depositor or checking account holder) shall be acceptable as security. Brush may reject any security for any reason.
27. Notice . When any faulty condition in the Improvements is found, Brush shall serve notice to Owner and/or its surety or Issuer of this condition. Upon receipt of said notice, Owner or its surety shall proceed immediately and with due diligence to perform all repairs and/or replacements in a satisfactory manner at no cost to Brush. The expiration date for the repaired or replaced work shall be the same as that for the warranty on the original work. In the event Owner fails to make such repairs or replacements, Brush shall have the right to do so in the manner described at Section 26.d hereof, pertaining to letters of credit. If, in repairing its own work, Owner damages the work or property of others, the repair and payment for such shall be Owner's responsibility.
28. Acceptance of Improvements . Except as provided herein, Brush shall not accept responsibility for maintenance of any Improvement until completion of such Improvement and final acceptance thereof by Brush. (See Chapter 16, Article 11 of the Brush Municipal Code). Upon application by Owner for a Certificate of Completion, and provided that all of the payments and other performances herein agreed to be made and performed by Owner have been made and completed, Brush will issue said Certificate of Completion, and, except for defects appearing within two (2) years after the date of such Certificate, will thereby release Owner from all further liability hereunder as to such completed Improvements and all unused security provided by Owner (other than landscape security) shall be released. Upon issuance of said Certificate of Completion, all Improvements specified in such Certificate shall be deemed approved and accepted by Brush, whereupon such specified Improvements shall be owned and maintained by Brush.
29. Remedies . In addition to any other remedy allowed by law, in the event of default by Owner with respect to any provision of this Agreement, including insufficiency of security to complete the Public Improvements, the City may revoke any or all certificates of occupancy relating to the development, may revoke the plat or other final development approval, and may refuse to further process any site development application for property owned, in whole or in part, by Owner.
30. Applicable Law . This Agreement, and the terms, conditions and covenants herein contained, shall be deemed to complement and shall be in addition to the conditions and requirements of Chapter 16, Article 11 of the Brush Municipal Code, and other applicable laws, rules and regulations. Where conflict exists between this Agreement and any other controlling laws, the more stringent provisions shall apply.
31. Severability . It is understood and agreed by the Parties that, if any part, term or provision of this Agreement is held by any court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.
32. Complete Agreement . This instrument embodies the whole agreement of the Parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between the Parties. There shall be no modification of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
33. Recording; Benefit . This Agreement shall be recorded with the Clerk and Recorder for Morgan County, Colorado; shall run with the land; and shall be binding upon and shall inure to the benefit of the Parties hereto and upon and to their respective successors, grantees and assigns.

- SUPPLEMENT HISTORY TABLE

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Owner shall be released from further obligation hereunder in the event of sale of the property or portions thereof; provided, however, that any successor, grantee or assignee of Owner shall be bound hereby, and this document shall have been recorded and serve as a covenant running with and burdening the land described in Exhibit A, as the burdened property, as an easement in gross for the benefit of the City of Brush. Any reference herein to "Owner" shall be deemed to include any purchaser, successor-in-interest or assign of Owner as to all or any part of the property. Owner shall notify Brush in writing within fifteen (15) days of any sale, transfer or assignment, giving the name and address of the transferee, assignee or buyer.

- 34. Effective Date . The terms of this Agreement shall become binding on all Parties hereto on the recordation of this Agreement in the records of the Clerk and Recorder of Morgan County, Colorado.
- 35. No Waiver . No waiver of any of the provisions of this Agreement shall be deemed or constitute a waiver of any other provisions herein, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
- 36. Counterparts . This Agreement may be executed in counterparts, each of which shall be deemed an original.
- 37. Authority . The undersigned hereby acknowledge and warrant their power and authority to bind the Parties to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to place their hands and seals upon this Agreement the day and year first above written.

CITY OF BRUSH  
a Colorado municipal corporation

By: \_\_\_\_\_

ATTEST:  
Mayor

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
[Owner]

By: \_\_\_\_\_

Title: \_\_\_\_\_

State \_\_\_\_\_ of \_\_\_\_\_ Colorado )  
County of Morgan ) ss.

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
by \_\_\_\_\_, of \_\_\_\_\_.

WITNESS my hand and official seal.

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My Commission Expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

[SEAL]

(Ord. 789-08 §1)

**EXHIBIT A SUBDIVISION IMPROVEMENTS AGREEMENT**

Legal Description

Street Address:

Record Title Owner and Address:

Tract, Lot or Parcel Legal Description:

[attach additional sheets if necessary]

**EXHIBIT B SUBDIVISION IMPROVEMENTS AGREEMENT**

Quantities and Costs Estimate

[ATTACHED]

Item	Quantity	Unit Cost	Unit Total
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**EXHIBIT C SUBDIVISION IMPROVEMENTS AGREEMENT**

Improvements Location Map

(showing Public Improvements and private improvements)

[ATTACHED]

**EXHIBIT D SUBDIVISION IMPROVEMENTS AGREEMENT**

Landscaping Quantities and Costs Estimate

[ATTACHED]

Item	Quantity	Unit Cost	Unit Total
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**EXHIBIT E SUBDIVISION IMPROVEMENTS AGREEMENT**

Landscaping Improvements Location Map

[ATTACHED]

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**EXHIBIT F SUBDIVISION IMPROVEMENTS AGREEMENT**

Declaration of Covenants, Conditions and Restrictions and/or  
Common Interest Community Declaration

[ATTACHED]

**EXHIBIT G SUBDIVISION IMPROVEMENTS AGREEMENT**

Site Plan

[ATTACHED]

**APPENDIX 16-C Fee Schedule**

Annexation	\$200 plus publication fees
Floodplain development permit	\$0
Sign permit	\$75
Special use permit	\$200
PUD	Rezoning and subdivision fees apply
PUD - minor amendment	\$200
PUD - amendments generally	Same fees as for the original application process (see rezoning and subdivision fees)
Rezoning	\$200 plus publication fees
Major subdivision	
Sketch plan	\$250
Preliminary	\$500 plus \$10 per lot
Final	\$400
Minor subdivision	
Sketch plan	\$250
Final	\$400
Mobile home park permit	\$500 (fee for initial permit - annual renewal fee set



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(also subject to site plan fee)	elsewhere)
Plat amendment/correction	\$400
Right-of-way/easement vacation	\$400
Site plan	\$50
Variances	\$200
Vested rights/site-specific development plan	\$200

For all applications - In addition to the fees listed, applicant will be responsible for any expenses incurred by the City when using outside consultants (i.e., attorney, engineer, etc.) in the review of an application.

These fees may be amended from time to time by a Resolution of the City Council.