

CITY OF EVANS, COLORADO
ORDINANCE 804-23

Title 5 - Business Taxes, Licenses and Regulations

[Amend Title 5, Section 5.12.010, Definitions, by removing the language in red, strikeout font and replacing with language highlighted in yellow]

~~Mobile food vending means the use of a legal motorized wheeled vehicle, legal towed wheeled vehicle, or pushcart, or other temporary operation designed and equipped to prepare and or serve food and or non-alcoholic beverages. A mobile food vendor is required to obtain a temporary use permit and license through the City of Evans. For additional information please refer to Chapter 18.~~ **Mobile food vendors, see Section 18.02.060.**

[No other changes to Chapter 5.12]

Title 18 - Land Development Code

[Repeal and replace Chapter 18.01]

CHAPTER 18.01 GENERAL PROVISIONS

18.01.010 Title.

This Title 18 shall be known and may be cited and referred to as the "Land Development Code," and may hereafter be referred to in this Title as "the Development Code" or "this Title."

18.01.020 Authority.

This Land Development Title is adopted pursuant to the authority granted to the City as home rule authority pursuant to Article XX of the Constitution of the State of Colorado, the City of Evans Home Rule Charter, and independent of and in addition to the Colorado Revised Statutes, including but not limited to, Title 31, Article 23 Planning and Zoning. This Title also supersedes any state legislative enactments which are, by their terms, subject to being superseded by adopted home rule city charters or ordinances.

18.01.030 Jurisdiction.

This Land Development Title shall apply to all structures, uses, and land within the legal boundaries of the City. A copy of a map showing the boundaries of the City shall be available for public inspection in the Community Development Department.

18.01.040 Purposes.

This Land Development Title is enacted for the following purposes:

- A. To assist orderly, efficient, and integrated development;
- B. To promote the health, safety and general welfare of the residents;

- C. To ensure conformance of land subdivision plans with the public improvement plans of the City, Weld County, the State and other public agencies;
- D. To ensure coordination of municipal public improvement plans and programs;
- E. To encourage well planned subdivisions by establishing adequate standards for design and improvements;
- F. To improve land survey monuments and records by establishing standards for surveys and plats;
- G. To safeguard the interests of the public, the property owner, and the subdivider;
- H. To secure equitable handling of all subdivision plans and plats by providing uniform procedures and standards;
- I. To prevent population congestion;
- J. To protect natural vegetation and scenic areas;
- K. To prevent and control erosion, sedimentation, and other pollution of surface and subsurface water;
- L. To prevent flood damage to persons and properties, and minimize expenditures for flood relief and flood-control projects;
- M. To restrict building on areas poorly suited for building or construction;
- N. To prevent loss and injury from landslides, mudflows, and other geologic hazards;
- O. To implement the Comprehensive Plan of the City;
- P. To lessen traffic congestion in the streets;
- Q. To secure safety from fire, panic, and other dangers;
- R. To promote adequate light and air;
- S. To facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.

18.01.060 Relationship to existing zoning and subdivision ordinances.

This section shall be used to guide the transition from previously existing regulations. Unless specifically stated otherwise in this Title, the following rules shall apply:

- A. *Generally.* All standards in this Title shall apply after the effective date of the ordinance adopting these standards, and all subsequent amendments shall become effective in the same manner.

- B. *Applications.* Any official application submitted prior to the effective date of the ordinance adopting these standards, and determined a complete application by the Director, shall be reviewed and processed according to the prior standards and procedures. An application submitted prior to the effective date, but determined incomplete, shall be resubmitted and processed according to the regulations in effect at the time of submittal of a complete application.
- C. *Prior Approvals.* All permits, site plans, or other approvals issued under an administrative capacity prior to the effective date of this Title shall remain effective for the duration specified with that approval. If no date is specified, the duration of the most applicable approval under this Title shall be used. Any changes or amendments to a prior approval requested after the effective date of this Title shall be subject to all provisions of this Title.
- D. *Plats.* Any approved preliminary plan may continue to advance to final plat. Each subsequent approval of a final plat for a phased project may renew the validity of that preliminary plan for the duration specified in Section 18.03.030. However, a new preliminary plan shall be required subject to all provisions if:
 - 1. The preliminary plan expires under the conditions of the prior approval or the duration specified for preliminary plans in Section 18.03.030, whichever is sooner.
 - 2. A final plat proposes a substantial change to the approved preliminary plan, per Section 18.03.030.C.1.
- E. *Continuation of Enforcement.* Any violations of a previously valid regulation that continues after adoption of this Title may be enforced as provided by this Title. The City may, in its discretion, enforce either the previous regulation or the standards of this Title.

18.01.070 Interpretation.

- A. When interpreting and applying the following provisions of this Title, the following shall govern:
 - 1. The provisions contained in this Title shall be regarded as the minimum requirements for the protection of the public health, safety and welfare.
 - 2. Whenever a provision of this Title and any provision in any other law of the City covers the same subject matter, whichever is the most restrictive or imposes the higher standard or requirements shall govern.

18.01.080 Administration.

- A. *Community Development Director.* The Community Development Director (Director) is responsible for administration of this Title, and is the principal interpretation and enforcement official of these regulations. The Director may consult with any other department or relevant outside agencies in order to coordinate any plans, policies, and programs. The Director shall specifically:

1. Prepare and provide development application forms and administer the requirements and review of submittals;
 2. Oversee the application, review, and administration processes and prepare presentations and reports for review bodies;
 3. Issue official interpretations and approve the use of other resources, guides, and industry standards used in administering this Title;
 4. Make all final interpretations and any final administrative decision referred to the Director.
- B. *Planning Commission.* The Planning Commission is the appointed body of the City responsible for all long-range and comprehensive planning, as well as review, recommendations and decisions on implementation of the Comprehensive Plan. The Planning Commission is established according to Chapter 12 of the Evans Home Rule Charter. In addition to all other general planning authority granted by the Charter, statutes, local ordinances, the Planning Commission shall have the specific review responsibilities and final administrative decisions referred to the Planning Commission under the procedures and standards of these regulations.
- C. *City Council.* The City Council is the elected and governing body of the City responsible for all legislative decisions that affect implementation of the Master Plan. In addition to other general authority granted by law, the City Council shall have the appeal authority and final decision authority referred to the City Council under the procedures and standards of these regulations.
- D. *Zoning Board of Appeals.* In accordance with Chapter 12.5 of the Evans Home Rule Charter, the City Council appoints the Zoning Board of Appeals. In addition to all other general authority granted by the Charter, statutes, local ordinances, the Zoning Board of Appeals shall have the specific review responsibilities and final administrative decisions referred to the Zoning Board of Appeals under the procedures and standards of these regulations.

18.01.090 Enforcement.

- A. *Violations.* It shall be unlawful for any building, structure, site element or use of land to be constructed, altered, maintained, or otherwise initiated in violation of these regulations. It shall be unlawful for any person to do or cause:
1. Any act or thing prohibited by these regulations;
 2. Omit any act or thing required by these regulations; and
 3. Interfere in any manner with persons in performance of a right or duty granted or imposed by these regulations, maintained, or otherwise initiated in violation of these regulations.

- B. Enforcement. The City may investigate and initiate proper actions or proceedings to prevent or terminate any activity or condition that is in violation of these regulations, including withholding any permits or licenses, revoking or suspending any permits or licenses previously granted, issuing stop work orders, preventing the sale or lease of property, correcting or abating the nuisance, withholding any public improvements, or penalizing and initiating legal proceedings to prevent the continuance of unlawful actions or conditions.
- C. Penalty. Any and all violations of the provisions of this Code shall be a code infraction and shall be subject to the sanctions for code infractions contained in Chapters 1.16 and 1.17 of this Code, and any other sanctions permitted under law. The City may seek and obtain remedies provided by law, including civil and administrative sanctions, temporary or permanent injunctive relief, and any other relief set forth in Chapters 1.16 and 1.17 of this Code.

18.01.100 Vested Rights.

- A. *Intent.* The intent of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended, and to effectuate local control over creation of vested property rights to the fullest extent permitted under the Evans Home Rule Charter.

- 1. *Definitions.*

- a. *Site specific development plan* means a plan that has been submitted to the City by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. A site specific development plan shall not include a sketch plan.
 - b. *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. Zoning that is not part of a site specific development plan shall not result in the creation of vested property rights.

- B. *Eligibility.* A site specific development plan may be in the form of, but need not be limited to, any of the following plans or approvals:

- 1. Preliminary subdivision plan;
 - 2. Final subdivision plat;
 - 3. Minor subdivision plat;

4. Planned unit development rezoning plat;
5. Site plan;
6. Special use permit; or
7. As otherwise agreed by the City Council and the owner for a specific project or development phase which occurs prior to building permit application for those developments for which the landowner wishes the creation of vested rights, and has submitted an application and receives approval by the City Council.

C. *Establishment.*

1. A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a site specific development plan, following notice and public hearing, by the appropriate City of Evans decision-making authority. A vested property right shall remain vested for a period of three (3) years unless a longer term is authorized by the City Council at the time of approval or any subsequent amendment.
 2. The City Council may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Conditional approval shall result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.
 3. A vested property right shall attach to and run with the applicable property and shall confer upon the landowner and their successors the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan including any amendments thereto.
 4. A site specific development plan shall be deemed approved upon the effective date of the legal action, resolution, or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review.
- C. *Notice of approval.* A notice shall be published advising the general public of the site specific development plan approval and creation of a vested property right pursuant to this Section no later than fourteen days following approval.
- D. *Vesting language.* Each recorded map, plat, 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 Title 18 of the Evans Municipal Code and Article 68 of Title 24 C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.

- E. *Payment of costs.* In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the City as result of the site specific development plan review, including but not limited to publication of notices, public hearing and review costs, which costs are hereby established by City Council by resolution.
- F. *Limitations.*
1. Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property. The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City, including but not limited to building, fire, plumbing, electrical and mechanical codes, or any identifiable subpart of the City.
 2. Following approval or conditional approval of a site specific development plan, nothing in this Section shall exempt such a plan from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of the original approval, if such reviews and approvals are not inconsistent with said original approval.
 3. A vested property right, once established as provided in this article, precludes any zoning or land use action by a local government or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in a site specific development plan, except:
 - a. With the consent of the affected landowner;
 - b. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of site specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare.
 4. If the vested rights associated with a specific property have expired, upon a showing of good cause explaining why the property was not developed during the original vesting period, the current landowner of such property may apply to City Council to reestablish and extend vested rights for the same development which was previously approved. City Council is not obligated to grant such request.

5. Nothing in this Section is intended to create any additional vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended.

18.01.110. Nonconformities.

- A. *Intent.* The City recognizes uses, structures, site conditions and lots that were established legally, but no longer conform to current requirements of this Code. The intent of this Section is to govern such nonconformities so they may continue to be put to productive use and to provide a process to bring them into compliance with current regulations.
- B. *Legal Nonconforming Uses.* Uses that were legally commenced, but which could not be legally established under the current terms of this Code, may continue to exist subject to the following:
 1. The use shall not be expanded beyond any specific area of the site or lot where it was legally established or beyond any existing building or structure where the nonconforming use exists, except where the following conditions are met:
 - a. The enlargement or addition of a structure shall facilitate conforming uses or activities, and does not otherwise expand or increase impacts of the nonconforming use;
 - b. The enlargement or addition of a structure shall not result in conversion of the nonconforming use from a seasonal to a year-round operation or otherwise expand the time of operations; and
 - c. The enlargement or addition of a structure shall require compliance with applicable standards in the area of impact in order for the nonconforming use to continue. The presence of a nonconforming use shall not be used to justify noncompliance with other applicable standards.
 2. If the nonconforming use is reduced in intensity or abandoned for a period of twelve (12) consecutive months, the property may not be used except at that lower intensity or as a conforming use.
 3. Any change of the nonconforming use shall be to a conforming use, and at the time of this change, the nonconforming use shall be deemed abandoned.
 4. Any structure in which a nonconforming use is carried on that is damaged to the extent of more than fifty percent (50%) of the replacement value shall not be restored to support the nonconforming use.

5. A detached house used as a single-family dwelling in any district that does not permit single-family dwellings may be enlarged or renovated, as long as the lot and building comply with all other base standards applicable to a similar building type.
- C. *Legal Nonconforming Structures.* Structures that were legally constructed at the time they were built, which could not be legally constructed under the current terms of this Code, may continue to exist subject to the following standards. This Section shall not apply to signs, which are addressed in Chapter 18.09.
1. Rehabilitation or expansion of the structure that increases the degree of nonconformity is prohibited. Other rehabilitation or expansions may occur provided that they comply with all other requirements of this Code; are not detrimental to the purposes, intent and objectives of the standards; and do not negatively impact development in conformance with this Code on adjacent property. In general, no repairs or alterations that cost more than fifty percent (50%) of the replacement value of the structure shall be permitted. The burden shall be on the applicant to produce evidence that the cost of the repair or alteration is less than fifty percent (50%) of the replacement value.
 2. If damaged by fifty percent (50%) or less of its total replacement cost, the structure may be restored to its original condition if work obtains a permit and work is commenced within 180 days, and work is completed prior to expiration of the permit.
 3. If the structure is determined obsolete or substandard by virtue of any applicable code beyond this chapter, and the applicant fails in their burden of proof that the cost of improvement or restoration is less than fifty percent (50%) of the replacement value, then the right to maintain the nonconformity shall terminate.
 4. Structures granted variances from the dimensional standards are not considered nonconforming and are not subject to the limitations of this section, provided that there are no changes beyond the limits, conditions, or extent of the approved variance.
- D. *Legal Nonconforming Site Conditions.* Any site condition associated with a conforming use or structure (such as parking, landscape, open space, or other non-building site characteristic) in legally created, instructed, or installed prior to these regulations, but which are not compliant with the standards of these regulations, may continue to exist subject to the following:
1. Any change of use or expansion of use shall require compliance with the new site standards up to the maximum extent practical, considering the extent of area being impacted by work to support the new or expanded use.

2. Any site development activity on a portion of a site shall require compliance with the new standards on that portion of the site or proportionate to area that is subject to the development activity. For example, a site that is not compliant with the landscape standards must meet the landscape standards prorated to the portion of the site where development activity occurs, but the remainder of the site may remain nonconforming. If more than fifty percent (50%) of the entire site area is impacted by development activity, the entire site shall be brought into compliance.
 3. Any change of use, building, or site design element that triggers a screening requirement shall require one hundred percent (100%) compliance with all screening standards applicable to the site.
 4. Where any application for construction is greater than fifty percent (50%) of the replacement value of a component of the site, that component or the entire site shall be brought into compliance.
 5. The Director may accommodate any other scenarios that meet the intent of this section and bring the site into greater compliance relative to the level of investment associated with the permitted activity.
- E. *Legal Nonconforming Lots.* Any lot platted legally prior to the adoption or amendment of this Code, or any parcel established legally prior to the adoption of subdivision regulations in Evans, but which could not be platted under the current requirements of this Code, may continue to exist provided it complies with the following standards. The size and shape of any nonconforming lot shall not be altered in any way, except to increase the conformity with these regulations.
1. In any district that allows detached houses, a detached house and customary accessory buildings may be erected on any nonconforming lot, provided all standards other than lot dimensions standards are met.
 2. In any district that does not allow detached houses, the nonconforming lot may be used for the smallest-scale building type permitted in the district by these regulations, provided all standards other than lot dimension standards are met.
 3. Where any nonconforming lot is under the same ownership as an abutting lot, the City may require minor plat procedures with regard to any development activity or use of the nonconforming lot. The minor plat procedures, including lot line adjustments or lot consolidations, shall be used to create the greatest degree of conformity possible.
 4. Any difficulties in meeting the standards of this subsection, or other applicable standards of the Development Code, which are attributable to the

nonconformity of the lot may be used as criteria for other relief from the standards authorized by this Code.

- F. *Burden of Proof.* The burden shall be on the applicant to establish that the nonconformity was established lawfully and the entitlement to continuation of nonconforming situations or completion of nonconforming projects according to this section. Owners of nonconformities may request a "certificate of legal nonconforming status" by filing an application with the Director, and once issued the owner may record the certificate with the Weld County Clerk and Recorder.
- G. *Benign Nonconformities.* As a result of any rezoning, in association with annexation, or associated with any other planning effort for a particular geographic area, the City may create rules for specific nonconforming situations. In these situations, the City Council may approve by ordinance a determination that the nonconformity has no negative effects on the long-term development within the zone district, and is compatible with the intent and design objectives for future development in the immediate surroundings. In this circumstance, a benign nonconformity may be permitted with the specifically stated additional rights, beyond the standard nonconforming rights of this Section.
- H. *Removal of Nonconformity.* A determination may be made by City Council by ordinance that a nonconformity poses significant negative effects on the long-term development within the district, or is incompatible with the intent and design objectives for future development in the immediate surroundings. In this circumstance, a nonconformity may be phased out over time to reduce the rights of the nonconforming situation to less than permitted by this Section. Any phased removal of the nonconformity shall be based upon:
 - 1. Identified risks to long-term investments in the surrounding area, and risks that could not otherwise be protected by a different zoning determination for the properties involved;
 - 2. Consideration of reasonable investments in the property up to the time the zoning established the nonconforming situation, and what is an appropriate time to allow a return on those past investments; and
 - 3. Coordinating with the anticipated rate of change in the area and how the presence of the nonconformity affects that change, including other opportunities available for the nonconforming property.

[Repeal and replace Chapter 18.02]

CHAPTER 18.02 ZONING

18.02.010 Establishment of districts.

- A. *Intent.* To carry out the intent and provisions of the Home Rule Charter and this Title, the following districts are established.
1. *AG (Agricultural).* The intent of the AG zone district is to encourage and preserve agricultural uses in the City, and designate properties within the City that have no proposed land use or may be in a transitional stage regarding development.
 2. *PF (Public Facilities).* The intent of the PF zone district is to provide civic services within the City of Evans.
 3. *R-1E (Estate).* The intent of the R-1E zone district is to preserve rural openness in a manner that is harmonious with agricultural uses and low-density residential living.
 4. *R-1 (Low-Density Residential).* The intent of the R-1 zone district is to encourage and promote single-family home neighborhoods. The densities and uses required in this district are established to enhance the open, residential character. The allowable uses are intended to be harmonious with low-density residential living and should support local neighborhoods.
 5. *R-2 (Medium-Density Residential).* The intent of the R-2 zone district is for a mixture of single-family, duplex, and townhome residential dwellings. Allowable uses in this district are intended to be harmonious with medium-density residential living and should support local neighborhoods.
 6. *R-3 (High-Density Residential).* The intent of the R-3 zone district is to include a variety of multifamily and single-family dwellings in an urban environment. Allowable uses in this district are intended to be harmonious with high-density residential living and should support local neighborhoods.
 7. *RMH (Residential Manufactured Housing).* The intent of the RMH zone district is for dense single-family dwellings on individual small lots or multiple single-family dwellings on a single lot. Allowable uses in this district are intended to be harmonious with high-density residential living and should support local neighborhoods.
 8. *R-C (Residential Commercial).* The intent of the R-C zone district is to provide a downtown district which reflects the mixture of residential and low-intensity commercial uses. Dwelling units are intended to be dispersed throughout the district in diverse forms and sizes. Public spaces are encouraged.
 9. *C-1 (Neighborhood Commercial).* The intent of the C-1 zone district is to encourage and promote pedestrian-friendly retail stores and service establishments serving

the daily needs of primarily adjacent neighborhoods in a manner that is compatible with the character of the surrounding residential areas.

10. C-2 (*General Commercial*). The intent of the C-2 zone district is to serve the commercial needs of multiple neighborhoods along high-traffic corridors.
11. C-3 (*Regional Commercial*). The intent of the C-3 zone district is to encourage and promote vehicle-centric uses that serve the needs of the region, including large-scale shopping and entertainment centers.
12. C-4 (*Commercial Industrial Mix*). The intent of the C-4 zone district is to provide vibrant mixed commercial and industrial uses that serve both local residents and the traveling public.
13. I-1 (*Light Industrial*). The intent of the I-1 zone district is to provide for light industrial and compatible commercial uses that are conducted primarily inside buildings that will not have significant impact on adjacent uses. I-1 shall not include transloading, batching, wrecking, incineration, rock crushing, refining, salvage yards, recycling centers, or rendering plants.
14. I-2 (*Medium Industrial*). The Intent of the I-2 zone district is to provide for industrial employment centers which are not compatible with residential activity and require a high level of transportation access. I-2 shall not include transloading, batching, wrecking, incineration, rock crushing, refining, salvage yards, recycling centers, or rendering plants.
15. I-3 (*Heavy Industrial*). The intent of the I-3 zone district is to provide for intense industrial uses, located along rail and major transportation corridors buffered from residential and commercial uses. Property shall not be rezoned to I-3 within five hundred (500) feet of property zoned R-1, R-2, R-3, or RMH.
16. PUD (*Planned Unit Development*). PUD zoning is no longer supported in the City; therefore, no property shall be rezoned to PUD. The intent of the PUD zone district was to provide for innovative development projects that do not conform to an existing zone district. Uses and standards for PUD-zoned properties are specific to the PUD.
 - a. To the extent the PUD creation documents contain uses or standards subject to interpretation, the permitted uses and standards of the most similar zone district established by this Title apply.
 - b. To the extent that the uses are not specifically identified and provided for in a PUD, the permitted uses and standards of the most similar zone district established by this Title apply.
 - c. If an approved PUD is undeveloped, see Vested Rights, Section 18.01.100.

17. *85-RC-A (U.S. 85 Retail and Commercial – Auto)*. All property zoned 85-RC-A shall be administered as if it were zoned I-2.
18. *85-RC-N (U.S. 85 Retail and Commercial – Neighborhood)*. All property zoned 85-RC-N shall be administered as if it were zoned C-3.
19. *85-RC-O (U.S. 85 Retail and Commercial – Office)*. All property zoned 85-RC-O shall be administered as if it were zoned C-4.
20. *85-RC-R (US. 85 Retail and Commercial – Regional Corridor)*. All property zoned 85-RC-R shall be administered as if it were zoned C-4.

B. Official Zoning Map.

1. The location and boundaries of the districts established by this Title are shown upon the Official Zoning Map for the City of Evans which shall be kept on file with the Community Development Department.
2. Rules for interpreting district boundaries. Where uncertainty exists as to the boundaries of any zone district shown on the official zoning map, the following rules shall apply:
 - a. Where such boundaries are indicated as approximately following streets and alley lines or lot lines, such lines shall be construed to be such boundaries.
 - b. In unsubdivided property, the location of any such boundary shall be determined by legal description.
 - c. In case further uncertainties exist, the City Council, upon written application or upon its own motion, shall determine the location of such boundaries.
 - d. Where a street or alley is officially vacated, the property formerly in that street or alley shall be included within the zone district of the adjoining property on either side thereof. In the event the entire width of a street or alley is vacated and the street or alley separates two (2) or more different zone districts, the new zone district boundary shall be the centerline of such vacated street or alley.
 - e. When possible, zone districts shall follow alleys, rear or side property lines and not centerlines of street rights-of-way.

18.02.020 Allowed uses.

- A. Site plan required. All new or substantially-improved nonresidential or multifamily sites require approval of a site plan pursuant to Section 18.03.060 of this Title prior to commencement of use.
- B. Applicable standards. All new or substantially-improved structures shall comply with applicable development standards in Chapter 18.05, Residential Development, or Chapter 18.06, Nonresidential Development.

C. Use Table. Table 18-2-1 establishes permitted uses for each zone district. These uses are established to implement the intent of the districts, permit a compatible range of uses within each district, and facilitate complimentary transitions between districts. The table identifies uses as:

1. “■” – Allowed use. The use may be operated in a way that complies with the Evans Municipal Code.
2. “A” – Accessory use. The use is allowed only as accessory to a principal use pursuant to Section 18.02.040.
3. “S” – Special use. Approval of a special use permit pursuant to Section 18.03.080 of this Title is required prior to commencement of the use. Where “A” and “S” are both listed, the special use permit is only required when the use is a principal use and not an accessory use.
4. Other accessory uses may be permitted pursuant to Section 18.02.040.
5. Other temporary uses may be permitted pursuant to Section 18.02.050.
6. Uses in the table may be subject to specific standards or limits in Section 18.02.020.C.

Table 18-2-1, Land Use Table

| USE | AG | PF | R1E | R1 | R2 | R3 | RMH | RC | C1 | C2 | C3 | C4 | I1 | I2 | I3 |
|------------------------------|----|----|-----|----|----|----|-----|----|----|----|----|----|----|----|----|
| Agriculture | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Auction yard | | | | | | | | | | | | | | | S |
| Brewery, distillery, winery | | | | | | | | S | S | ■ | ■ | ■ | ■ | ■ | ■ |
| Business, adult | | | | | | | | | | | | | S | ■ | ■ |
| Campground | S | | | | | | S | | | | | | | | |
| Car wash facility | | | | | | | | | | S | ■ | ■ | ■ | ■ | ■ |
| Cemetery | S | ■ | S | | | | | | | | S | | | | |
| Community facility | ■ | ■ | S | S | S | S | S | ■ | ■ | ■ | ■ | ■ | ■ | | |
| Congregate residence | | | | | | S | | S | S | | | | | | |
| Crematorium | | | | | | | | | | S | ■ | ■ | ■ | ■ | ■ |
| Day care center | | | S | S | S | S | S | S | ■ | ■ | ■ | | | | |
| Dwelling, residential | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | | | | | | | |
| Dwelling, above commercial | | | | | | | | ■ | ■ | ■ | ■ | ■ | | | |
| Dwelling, security residence | ■ | | | | | | | | | | | | | ■ | ■ |
| Healing Center | | | | | | | | | | | | | | | S |
| Hospital | | | | | | | | | S | ■ | ■ | ■ | ■ | ■ | ■ |
| Industrial uses, light | | | | | | | | | | | S | ■ | ■ | ■ | ■ |
| Industrial uses, medium | | | | | | | | | | | | S | S | ■ | ■ |
| Industrial uses, heavy | | | | | | | | | | | | | | | ■ |

| USE | AG | PF | R1E | R1 | R2 | R3 | RMH | RC | C1 | C2 | C3 | C4 | I1 | I2 | I3 |
|---|----|----|-----|----|----|----|-----|----|----|----|-----|----|----|----|----|
| Kennel | ■ | | | | | | | | S | S | ■ | | S | ■ | ■ |
| Lodging | | | | | | | | | | S | ■ | ■ | S | ■ | |
| Long-term care facilities | | | ■ | S | S | ■ | S | ■ | S | ■ | ■ | | | | |
| Mini storage units | | | | | | | | | | S | S | S | S | ■ | ■ |
| Mortuary or funeral home | | | | | | | | ■ | ■ | ■ | ■ | | ■ | | |
| Motor vehicle sales | | | | | | | | | | ■ | ■ | ■ | ■ | | |
| Natural resource extraction and treatment | ■ | | | | | | | | | | | | | | ■ |
| Nightclub, bar, tavern | | | | | | | | S | S | ■ | ■ | ■ | ■ | ■ | ■ |
| Office | A | A | | | | A | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Oil and gas facility | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Outdoor storage | | | | | | | | | | A | A | A | A | ■ | ■ |
| Parking garage | | ■ | | | | | | | | ■ | ■ | ■ | ■ | ■ | ■ |
| Parking lot, off-street, principal | | ■ | | | | | | | | | | | ■ | ■ | ■ |
| Personal service establishment | | | | | | | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Public service facility | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Recreation, community | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Recreation, indoor | ■ | ■ | S | S | S | S | S | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Recreation, outdoor | ■ | ■ | S | S | S | S | S | S | S | S | ■ | ■ | ■ | ■ | ■ |
| Recreational vehicle storage | | | | | | | | | | | | | S | ■ | ■ |
| Recycling | | | | | | | | | | | | | | | S |
| Rendering | | | | | | | | | | | | | | | S |
| Renewable energy facility | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Repair shops | | A | | | | | | S | | S | S | A | ■ | ■ | ■ |
| Residential facilities, staff supervised | | | | | | S | | S | S | | | | | | |
| Retail uses, outdoor | | | | | | | | S | S | ■ | ■ | ■ | ■ | ■ | ■ |
| Retail uses, indoor | | | | | | | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Salvage yard | | | | | | | | | | | | | | | S |
| School, higher education/vocational | ■ | | | | | | | S | S | ■ | ■ | ■ | ■ | ■ | ■ |
| School, private | | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | |
| School, public | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |
| Theater | | | | | | | | S | ■ | ■ | ■ | ■ | ■ | | |
| Transportation facility | | ■ | | | | | | | | | | | | ■ | ■ |
| Treatment of humans, restrained | | | | | | | | | | | | | | S | S |
| Warehousing | | A | | | | | | | | A | A/S | A | ■ | ■ | ■ |
| Wireless communication facility | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ |

D. Use definitions and standards.

1. *Agriculture* - the production of crops such as vegetables, fruit trees, grain, plants, shrubs, vines or flowers; the growing of trees and shrubs for commercial landscape purposes, ranching, riding stables without arenas, and similar uses and activities. Agriculture shall not include confined animal feeding operations (CAFO or HCSFO), as defined by Colorado Department of Public Health and Environment.
2. *Auction yard* - property on which merchandise or other property is sold by auction.
3. *Brewery, distillery, winery* - Any establishment licensed pursuant to the provisions of Title 44, Article 3, C.R.S., where malt liquors, vinous liquors, spirituous liquors or fermented malt beverages are manufactured.
4. *Business, adult* - business, service or entertainment establishment subject to the licensing requirements, provisions, and restrictions of Chapter 5.10 of the Evans Municipal Code.
5. *Campground* - A recreational activity involving spending the night in a tent, primitive structure, travel trailer or recreational vehicle at a campsite. Campgrounds shall adhere to the following:
 - a. A campground shall have no less than fifteen (15) camp sites. At least five percent (5%), and no less than two (2), of the camp sites shall be ADA-compliant accessible.
 - b. A campground shall be at least five (5) acres in size with no more than fifteen (15) camp sites per acre.
 - c. A campground shall only be located within one-half (1/2) mile of an open space or public park at least forty (40) acres in size.
 - d. All internal roads shall be paved, be at least twenty (20) feet wide, and have no on-street parking.
 - e. The right-of-way by which a campground is accessed shall be maintained by the City of Evans and access shall not be through any residential development.
 - f. All camp sites shall be set back twenty (25) feet from any property boundary or public right-of-way and seventy-five (75) feet from any existing single family dwelling.
 - g. All camp sites shall be designated. No dispersed camping allowed.
 - h. All camp sites shall be on an improved surface approved by the City Engineer.

- i. A minimum of fifty percent (50%) of recreational vehicle (RV) sites and all tent sites in a campground shall be for short-term rentals, less than thirty (30) days.
 - j. Any lease of a camp site within a Special Flood Hazard Area shall be limited to no more than six (6) months.
 - k. Any RV in a campground must remain readily mobile with a current license and be ready for highway use. No structure may be attached to an RV or placed in a manner that would prevent or hinder the immediate removal of the RV.
 - l. Outdoor storage is not permitted within a camp site.
 - m. Maintenance of an RV is not permitted within a campground.
 - n. The campground shall be secured with a perimeter fence and an access-controlled gate.
 - o. All internal pedestrian paths shall be lit with downcast and shielded lights for safety.
 - p. Amenities are required to benefit the users of the campground. One common amenity shall be provided for every thirty (30) camp sites. Amenities may be a park, playground, community garden, swimming pool, sport court, sheltered picnic area, or similar feature.
 - q. The number of comfort stations, toilets and showers shall comply with Weld County Department of Public Health and Environment recommendations. Any comfort station, water hook-up, or sanitary sewer hook-up shall be connected to the City of Evans systems.
6. *Car wash facility* – a facility used for the purpose of washing vehicles and with the capacity to wash more than one vehicle at a time, or with the capacity to wash a commercial semi-truck.
- a. Operation shall be limited to daylight hours.
 - b. Staging of vehicles off-site is prohibited.
 - c. A water reclamation plan shall be approved by the City prior to operation of any new car wash facility.
 - d. A noise mitigation plan shall be approved by the City prior to operation of any new car wash facility.
7. *Cemetery* - land used for the burial and memorializing of the dead and dedicated for cemetery purposes, including columbaria, mausoleums, and pet cemeteries.

8. *Community facility* - place of worship, library, museum, public or quasi-public building, or other cultural and religious facility for general public or fraternal organization use.
9. *Congregate residence* –any building or portion thereof which contains facilities for living, sleeping and sanitation, as required by the International Building Code, and may include facilities for eating, cooking and general care not involving special medical treatment, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, orphanage or children's home, fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels, motels, lodging houses or similar uses.
10. *Crematorium* - a place for the cremation of human or animal remains.
11. *Day care center* - an establishment that provides care for children that does not meet the State definition of a “family child care home.”
12. *Dwelling, residential* – use of a structure for residential dwelling. Types of dwellings, such as single-family or multifamily, and associated standards are found in Chapter 18.05 of this Title. A residential dwelling may be a community residential home as defined by 25.5-10-214 of the Colorado Revised Statutes.
13. *Dwelling, above commercial* – use of the upper stories above a ground floor commercial use for residential dwelling(s) having an independent entrance either directly from outside the building or through a common area inside the building.
14. *Dwelling, security residence* – use of a building or a portion thereof, arranged, designed and intended to be occupied by not more than one (1) family, and which is used for the housing of one (1) or more members of any such family for the purpose of providing security for the property of any business which is located on the same property. At least one (1) member of a family living in the security residence must be employed for security purposes by the business which is located on the same property on which the residence is located.
15. *Healing Center* as defined in the Natural Medicine Health Act of 2022 (Title 12, Article 170, C.R.S.), is a facility that is licensed by the State to administer “natural medicine” that includes dimethyltryptamine; ibogaine; mescaline (excluding *lophophora williamsii* (“peyote”)); psilocybin; or psilocyn. A healing center shall:
 - a. Be located at least one (1) mile from any school or child care center.
 - b. Be one half (1/2) mile from any residential dwelling, park, recreation facility, or restrained treatment of humans.
 - c. Not allow persons under the age of twenty-one (21) to enter the facility.
 - d. Operate only within the hours of seven (7) a.m. and seven (7) p.m., Monday through Friday.

16. *Hospital* - a state or federal certified facility providing health services primarily for in-patients and medical or surgical care of the human sick and injured, including as an integral part, such related facilities as laboratories, out-patient services, urgent care facilities, rehabilitation and recovery services, training facilities, central service facilities and staff offices.
17. *Lodging* - establishment providing accommodations, meals, and other services for travelers and tourists. Includes hotels, motels, bed & breakfasts, and similar establishments. May include an operator residence.
18. *Industrial use, light* – an indoor use connected with manufacturing, assembly, processing, research, not to include transloading, batching, wrecking, incineration, rock crushing, refining, salvage yards, recycling centers, or rendering plants.
19. *Industrial use, medium* – a use connected with manufacturing, assembly, processing, research; not to include transloading, batching, wrecking, incineration, rock crushing, refining, salvage yards, recycling centers, or rendering plants.
20. *Industrial use, heavy* – a use connected with manufacturing, assembly, processing, research that includes transloading, batching, wrecking, incineration, rock crushing, or refining; not to include salvage yards, recycling centers, or rendering plants.
Add hazardous materials into heavy
21. *Kenel* - any property used for commercial or institutional purposes, on which four (4) or more pet animals, at least four (4) months of age, are kept for training, boarding or breeding, whether in special structures, runs or not, subject to the following:
 - a. Waste shall be handled and disposed of in a sanitary manner approved by the Colorado Department of Public Health and Environment.
 - b. Suitable chemical and scientific controls shall be provided for rodent and insect control.
 - c. Drainage facilities or improvements shall be constructed to protect municipal storm sewers and adjacent rivers and bodies of water.
22. *Long-term care facilities* - a health institution that is licensed to provide health care under medical supervision for twenty-four (24) or more consecutive hours to two (2) or more patients including continuum care facilities, hospices, assisted living, and nursing care facilities on a more or less permanent basis.
23. *Mini storage unit* - a building containing limited size storage areas not to exceed three hundred (300) square feet per unit; designed and used for the keeping of personal property, goods and similar articles of merchandise.
 - a. All units shall be setback from rights-of-way a minimum of twenty-five (25) feet.

- b. Hazardous materials such as flammable liquids, flammable gases and toxic chemicals within a mini storage unit shall be prohibited.
 - c. A ten-foot-wide (10 FT) buffer area of natural growth, including trees and shrubs, approved by the City, shall be installed and maintained along the entire length of any boundary of a mini storage development adjacent to a residentially zoned district, whether or not such boundary is separated by a street, alley or easement or other right-of-way. Such buffer may, if required by the City, include a six-foot-high (6 FT) screen composed of natural or manmade materials unless the physical attributes of the land make the screen unnecessary. The buffer may be inside the mini storage development fence, provided adjacent residential properties are already surrounded by a six-foot (6 FT) fence.
24. *Mortuary or funeral home* - a building or part thereof used for human funeral services, which may contain space and facilities for preparation of the dead for burial; the storage of caskets, urns and other related funeral supplies; and the storage of funeral vehicles. Funeral homes may only include crematoriums as accessory uses if crematoriums are allowed in the zone district.
25. *Motor vehicle sales* - the sale or lease or offering for sale or lease of three or more new or used motor vehicles at the same address whether or not the motor vehicles are owned by the property owner, including the sale of automobiles, recreational vehicles, boats, utility vehicles, or other vehicles licensed by the Colorado Division of Motor Vehicles.
26. *Natural resource extraction* – a use involving clearing or grading of land or the removal, for commercial purposes, of native vegetation, topsoil, fill, sand, gravel, rock, coal, metal ore, or any other mineral, and other operations having similar characteristics the removal of, coal, metal ore, or any other mineral or soil-based materials including, but not limited to rock, gravel, sand, clay, topsoil, and peat, or the cutting of trees, and the transport of these materials beyond the legal boundaries of the property of origin, except for uses associated with an oil and gas facility. See *oil and gas facility*.
27. *Nightclub, bar, tavern* - any use in which the primary attraction is the sale of alcoholic beverages for on-site consumption or where the sale and consumption of alcoholic beverages is secondary to entertainment such as live music, recorded music, the viewing of broadcasted sporting events, or similar activities requiring a “tavern” liquor license from the state.
28. *Office* – use of property for commercial, professional, or bureaucratic work. Banks, savings and loan institutions, lending establishments, professional, administrative offices, medical offices and similar uses are included in this definition.

29. *Oil and gas facility* - equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, E&P waste, or gas. Oil and gas facility may also be referred herein in certain circumstances synonymously as "facility." Oil and gas facility regulation and application procedure are found in Chapter 18.12 of this Title.
- a. A distance of two hundred fifty (250) feet minimum shall be maintained between oil and gas facilities and new developments including residential buildings, structures and non-residential buildings. A property owner's Surface Use Agreement with an oil and/or gas operator shall govern this setback, if applicable; however, in no event shall this setback be less than two hundred fifty (250) feet.
 - b. A distance of fifty (50) feet minimum shall be maintained between plugged and abandoned oil and/or gas well heads and new development including residential buildings, structures and non-residential buildings. A property owner's Surface Use Agreement with an oil and/or gas operator shall govern this setback, if applicable; however, in no event shall this setback be less than fifty (50) feet.
30. *Outdoor storage* – commercial storage of materials, supplies, parts, machines, containers, tractor-trailers, unoccupied mobile homes and equipment not kept in an enclosed and permitted structure, subject to the following limitations. This definition shall not apply to displayed items for sale to the general public such as new and used cars, recreational vehicles, boats and landscape and building materials; nor to parking of vehicles regularly used in connection with the operation of an establishment or parked for less than forty-eight (48) hours for maintenance service. See *outdoor sales/display* in Section 18.02.030.J.
- a. Outdoor storage shall be opaquely screened from public rights-of-way and adjacent properties with fencing and/or landscaping materials permitted by this Title.
 - b. The height of material storage may be limited to mitigate impacts to surrounding properties as part of a land use approval process.
 - c. The storage area shall be outside of required setbacks.
 - d. Outdoor storage shall not include the storage of junk, as defined in Chapter 18.11 of this Title.
31. *Parking, off-street* - public and private parking areas or structures outside of the public right-of-way for vehicles which are licensed and highway ready. Long-term storage of vehicles is not included in this definition.
32. *Personal service establishment* - an establishment serving the personal needs of individuals and includes barbershops, beauty parlors, doctors and dentist offices,

shoe repair shops, florist sales, gift and card shops, magazine outlets, jewelry stores, laundry shops, dry-cleaning outlets, taxidermy and other similar uses.

33. *Public service facility* – emergency services, such as for fire, police, or ambulance, or essential public utility that is owned, operated or used by a governmental entity, or any entity defined as a public utility for any purpose by the Colorado Public Utilities Commission and used in connection with the reproduction, generation, transmission, delivery, collection, treatment or storage of water, sewage, electricity, gas, oil, or electronic signals, and similar uses necessary for the protection and benefit of the public.
34. *Recreation, community* – indoor or outdoor recreation facility intended to serve the residents of a single neighborhood or development.
35. *Recreation, indoor* - the operation of indoor recreational activities such as exercise and athletic facilities, and amusement and/or recreational services, such as billiard and pool halls, skating rinks, exercise and health clubs, dance studios, gymnastic centers, martial arts, indoor pools, bowling alleys, and similar uses.
36. *Recreation, outdoor* - the operation of outdoor recreational activities, such as fishing and riding clubs, golf courses, basketball, tennis courts, soccer, baseball, softball, football fields and similar recreational uses.
37. *Recreational vehicle storage* - the renting of space in an unroofed area for simultaneous commercial placement/storing of two (2) or more recreational vehicles. For the purpose of this definition, a recreational vehicle shall be a transportable structure that is primarily designed for seasonal recreational/vacation purposes for recreational, camping and travel use including, but not limited to, boats, travel trailers, campers, snowmobiles, motorcycles, self-propelled motor homes and similar vehicles/units. This use does not include the accessory storage of recreational vehicles at private residences, which is permitted in accordance with **Section 18.02.030.L**.
38. *Recycling* – the processing, collection and transfer of recyclable materials that requires permitting by the Colorado Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment.
39. *Rendering* – a use that includes slaughterhouses, packing houses, rendering plants, bone factories, soap factories, tanneries.
40. *Renewable energy facility* – a facility that produces, stores, and/or distributes solar, wind, hydroelectric, geothermal, biomass, nuclear, or similar emerging energy technology from a renewable source. It does not include accessory renewable energy being produced to power a single site or that is affixed or incorporated in an accessory manner into the design of a building. Renewable energy facility

locations may be approved separately and prior to approval of the required site plan. A renewable energy facility shall meet the following requirements:

- a. Ancillary equipment shall be screened from public view.
 - b. Glare shall be minimized.
 - c. All electrical interconnection and distribution lines within the project boundary shall be underground, except for power lines that extend beyond the project site or are within a substation.
 - d. Lighting shall be limited to the minimum necessary for security and shall incorporate shielded full cut-off light fixtures.
 - e. Landscaping and/or screening materials may be required to assist in screening the facility from public rights-of-way and neighboring residences to establish compatibility.
 - f. If located within a Residential or Commercial zone district, the facility location shall not impede future development plans of the area. Applicant must demonstrate that the use of residential or commercial land for a renewable energy facility is the most practical use of the land given restrictions, limitations or burdens that may preclude residential or commercial development of the property, such as within a flood prone area or is otherwise undevelopable, such as within an oil and gas setback.
 - g. Any renewable energy facility that has not been in working condition for a period of eighteen (18) months shall be subject to the Unsafe Structures and Equipment section of the International Building Code, which may require associated equipment to be removed, or the unsafe condition otherwise mitigated if it is determined to be unsafe. If so, determined by the Building Official, the associated equipment shall be promptly removed from the property to a place of safe and legal disposal, after which the site and/or building, as applicable, must be returned to its preexisting condition.
41. *Repair* - servicing of major appliances, vehicles and equipment, such as plumbing shops, electrical shops, sheet metal shops, and automobile garages and similar uses.
42. *Residential facilities, staff supervised* - a state licensed facility or group of buildings used to provide twenty-four (24) hour supervised residential group care for children between ages three (3) to eighteen (18) years-old and for those persons under twenty-one (21) years old who are placed by court order prior to their eighteenth birthday, not intended for placement of violent or repeat offenders.

43. *Retail uses, outdoor* - the sale or renting of goods and conveniences directly to consumers which require large outdoor areas for display of merchandise, service, amusement, or storage, such as farm implement sales, greenhouses; nurseries, drive-in movies, automotive fueling stations, feed and grain stores, mobile home sales, restaurants, and other establishments of a similar nature.
44. *Retail uses, indoor* – the sale or renting of goods and conveniences directly to consumers within a building, such as supermarkets, restaurants, liquor stores (subject to licensing requirements), drugstores, department stores, hardware stores, variety stores, furniture stores, laundry/dry cleaners, art studios, and other similar uses.
45. *Salvage yard* - collecting, storing and/or selling scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such materials or parts.
46. *School, private* – an independent or privately-funded elementary, middle, junior, high, or alternative school which satisfies the compulsory school attendance requirements of the State of Colorado.
47. *School, public* – a publicly-funded elementary, middle, junior, high, or alternative school which satisfies the compulsory school attendance requirements of the State of Colorado.
48. *School, higher education/vocational* - a community college, junior college, college, university or specialized instructional establishment that provides on-site training, including driving schools, hairdressing schools, and other similar uses. This definition does not include training in an activity that is not an allowed use in the zone district in which the property is located. Incidental instruction in conjunction with a principal use shall not be considered a vocational school.
49. *Theater* - a building, or part thereof, devoted primarily to the showing of motion pictures or for dramatic, dance, musical, or other live or cultural performances.
50. *Transportation facility* - facility for loading, unloading, and transferring passengers, baggage, and incidental freight between modes of transportation. This use includes bus terminals, railroad stations, and public transit stations.
51. *Treatment of humans, restrained* - pre-parole facilities, jails, reformatories, mental hospitals, and similar buildings where personal liberties are restrained.
52. *Warehousing* – the use of a site for the storage of goods, materials, or equipment, excluding mini-storage units. See *mini-storage units*.
53. *Wireless communication facility* - A wireless communication facility is defined in Section 18.10.020.Z of this Title. Residential satellite dish installations which are three feet or less in diameter, residential single-pole or tower roof or ground-mounted television, or amateur radio antennas are exempt from land use permitting.

- a. Wireless communication facilities that are accessory to a principal use and are forty (40) feet tall or less shall be permitted in accordance with Section 18.02.030.N of this Chapter.
- b. Wireless communication facilities that are a principal use or are accessory and over forty (40) feet tall shall be permitted in accordance with Chapter 10 of this Title.

E. Prohibited uses.

1. Marijuana-related uses.

- a. The use of property as a medical marijuana center, optional premises cultivation, or medical marijuana-infused products manufacturing.
- b. The use of property as a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturing facility, marijuana testing facility or marijuana club.
- c. Marijuana club means a place not used for residential purposes where individuals gather to consume or grow marijuana, regardless of whether such place calls itself private or public or charges an admission or membership fee.
- d. See Section 8.18.030 for general smoking restrictions.

18.02.030 Dimensional limitations.

A. *Residential limitations.* The following setbacks, lot coverage, and height limits apply to all structures on residentially-used lots. In no case shall any setback, exception or modification impede utility services or violate the provisions of a recorded easement.

1. *Front and corner side setback.* The setback from any right-of-way shall be:

- a. Ten (10) feet if the lot meets the requirements for Terrace frontage design in accordance with Section 18.05.030 or the lot meets the requirements for Small Format Housing in accordance with Section 18.05.080.
- b. Twenty-five (25) feet for all other lots.

2. *Interior side setback.* The interior side setback from a property line shall be:

- a. Five (5) feet or one (1) foot for every three (3) feet of building height, whichever is greater.
- b. Zero (0) feet from a building that shares a party wall across the property line.

3. *Rear setback.* The rear setback from a property line by zone district shall be:

- a. AG, R1-E: Thirty (30) feet.

- b. R-1, R-2, R-3, R-C: Twenty (20) feet.
 - c. RMH: Ten (10) feet.
4. *Maximum lot coverage.* Maximum lot coverage by lot size with reference to housing types, as defined in Chapter 18.05, Residential Design, provided that stormwater is adequately captured in accordance with Engineering Standards and Specifications.
- a. Detached house, one (1) acre or greater: Fifty (50) percent.
 - b. Detached house, six thousand (6,000) square feet up to but not including one (1) acre: Seventy (70) percent.
 - c. Detached house, thirty-five hundred (3,500) square feet up to but not including six thousand (6,000) square feet: Eighty (80) percent.
 - d. Small format house, less than thirty-five hundred (3,500) square feet: Eighty-five (85) percent.
 - e. Duplex or multi-unit house: Seventy-five (75) percent.
 - f. Row house or apartment with twelve (12) units or fewer: Eighty-five (85) percent.
 - g. Apartment with more than twelve (12) units: Seventy (70) percent.
5. *Maximum building height.* Maximum building height by housing type per Chapter 18.05, Residential Design.
- a. Detached house, duplex, or multi-unit house: Thirty-five (35) feet or three (3) stories.
 - b. Small format house: Twenty-five (25) feet or two (2) stories.
 - c. Row house, any zone, or apartment in R-2 zone district: Forty (40) feet or three (3) stories.
 - d. Apartment in R-3 zone district: Sixty-five (65) feet or six (6) stories.
- B. *Nonresidential use and mixed-use limitations.* The following setbacks, lot coverage, and height limits apply to all structures on nonresidential and mixed-use lots. In no case shall any setback, exception or modification impede utility services or violate the provisions of a recorded easement.
- 1. *Front and corner side setback.* The setback from any right-of-way shall be:

- a. Ten (10) feet if the lot meets the requirements for Frontage A or B design in accordance with Section 18.06.030.
 - b. Twenty-five (25) feet for all other lots.
- 2. *Rear and interior side setback.* The rear and interior side setback shall be:
 - a. Five (5) feet or one (1) foot for every three (3) feet of building height, whichever is greater, from a structure on a commercial or industrial use lot to the property line shared with another commercial or industrial use lot.
 - b. Twenty (20) feet from a structure on a commercial use lot to the property line shared with a residential use lot.
 - c. Thirty (30) feet from a structure on an industrial use lot to the property line shared with a residential use lot.
 - d. Zero (0) feet from a building that shares a party wall across the property line.
- 3. *Maximum lot coverage.* Maximum lot coverage provided that stormwater is adequately captured in accordance with Engineering Standards and Specifications: Eighty (80) percent.
- 4. *Maximum building height.* The maximum building height per zone district shall be as follows unless stated otherwise in this Title.
 - a. C-1: Thirty-five (35) feet.
 - b. R-C, C-3, C-4, I-1: Forty (40) feet.
 - c. C-2: Forty (40) feet for nonresidential use buildings; sixty (60) feet for mixed commercial and residential use buildings.
 - d. I-2: Sixty (60) feet.
 - e. I-3: One hundred (100) feet.
 - f. Nonresidential uses in all other zone districts: Thirty-five (35) feet.
- C. *Structure separation.* A structure shall be separated from another structure at least ten (10) feet unless joined to another structure by a party wall.
- D. *Oil and gas setback.* Habitable structures shall be set back:
 - 1. Fifty (50) feet from plugged and abandoned oil and gas facilities.
 - 2. Two hundred fifty (250) feet from all other oil and gas facilities.
- E. *Setback encroachment.*
 - 1. Projections over public rights-of-way, or any similar area designed for pedestrian circulation, shall be at least ten (10) feet above the grade, and at least five (5) feet of any curb for a street, access drive, or other area for vehicles.

2. Structural projections such as bay windows, balconies, chimneys, eaves, cornices, awnings, fire escapes, egress wells, or other non-foundational overhangs or projections may extend up to four (4) feet from the foundation and encroach into the setback, but no closer than two (2) feet from any lot line.
3. Ground-mounted mechanical equipment, condensers, meters, and utility boxes accessory to the building may be located in the side or rear setback, provided that it extends no more than six (6) feet from the principal building, no closer than five (5) feet to the lot line, and is screened from public right-of-way by structures or landscape. These limitations do not apply to any utility structures otherwise authorized to be located according to easements or in the right-of-way, which shall follow the location and design standards of those specific authorizations.

F. *Height limit exceptions.*

1. Accessory building elements integral to the design and construction of the building, such as parapet walls, false mansards, or other design elements essential to quality building appearance may extend up to six (6) feet above the roof deck on a flat roof.
2. Architectural features such as chimneys, ornamental towers or spires, and similar accessory elements that are cumulatively less than twenty (20) percent of the building footprint may extend up to fifty (50) percent above the actual building height.
3. Functional and mechanical equipment such as elevator bulkheads, cooling towers, smokestacks, roof vents, or other equipment may be built up to their necessary height in accordance with building codes provided they are screened according to the standards of this code.

18.02.040 Accessory uses.

- A. *Intent.* In addition to the general use and development standards applicable to all districts, permitted uses may include other accessory uses. This section provides basic performance standards for all accessory uses and specific standards for particular accessory uses.
- B. *Accessory dwelling.* Accessory dwellings are permitted as an accessory use to a principal dwelling as indicated in Table 18-5-1 of Chapter 18.05, Residential Development, and are subject to the following additional standards:
 1. One accessory dwelling may be permitted per eligible lot.
 2. Accessory dwelling units may be located within the principal building, such as an attic or basement apartment, or located in a detached accessory building.
 3. The accessory dwelling shall not exceed fifty percent (50%) of the living area of the principal dwelling.

4. A minimum of one (1) additional off-street parking space shall be provided for the accessory dwelling. The number of additional off-street parking spaces shall equal the number of bedrooms in the accessory dwelling unit. The accessory dwelling parking space(s) shall be confined to a garage or paved or gravel driveway.
 5. The accessory dwelling shall be architecturally consistent with the principal building.
 6. A detached accessory dwelling shall meet all applicable standards in Chapter 18.05, residential development and design.
- C. *Accessory structure.* Accessory structures shall be permitted in association with and on the same lot as a principal building and are subject to the following additional limitations.
1. All accessory structures shall be clearly incidental and subordinate to the principal building and use, in terms of scale, location, and orientation.
 2. Minor accessory structures one hundred twenty (120) square feet or less, less than ten (10) feet high, and not on a foundation or slab shall be movable, are subject to meeting all easement conditions, and are not subject to the design standards in Chapters 18.05 or 18.06, provided they are:
 - a. Setback more than eight (80) feet from any public right-of-way or public space; or
 - b. Otherwise not visible from any public right-of-way or public space due to the location and orientation of the principal structure.
 3. Accessory structures with vehicle access directly from an alley or shared easement shall be situated to avoid parking that encroaches in the alley or easement.
 4. For residential and commercial accessory structures over one hundred twenty (120) square feet, the design shall meet all applicable design standards for a principal building and be compatible with the principal building considering materials, architectural details and style, window and door details, and roof pitch and form.
 5. In zones R-1, R-2, R-3, and R-C, accessory structures shall not exceed the height of the of the principal building or have a roof peak above twenty-two (22) feet above finished floor, whichever is less.
 6. In zone RMH, the height of accessory structures shall not exceed fifteen (15) feet.
- D. *Accessory uses, generally.* Principal uses may include accessory uses subject to the following general standards, and any applicable standards in this Section:
1. The use, and any structure, is clearly incidental and subordinate to an allowed use and customarily associated with the allowed use.
 2. The use is on the same lot as the principal use or adjacent lot so long as the adjacent lot is under the same property ownership or same lease contract.

3. The use is compatible with the general character of the area and comparable in scale and intensity to uses of other property in the vicinity.
 4. No use or structure may be constructed, maintained, or conducted in a way that produces noise, vibration, noxious odor or material, any visible light, glare or other visible impacts that are harmful, damaging or disturbing to the adjacent property.
 5. Any structures or site design elements to support the use can be screened or located to minimize impact on adjacent property or are not significantly different from what is typical for other allowed uses in the district.
 6. There are no unusual traffic patterns or increases in operational activity that impact the use and design of streets and public spaces differently than other allowed uses.
 7. All uses and structures are conducted in a way that is consistent with the intent and objectives of all other design and development standards applicable to the property. See Chapter 18.05, residential development and design, and Chapter 18.06, nonresidential development and design.
- E. *Camping, guest.* Each residential property shall be entitled to one (1) guest camping pass per calendar year for a recreation vehicle for a period not to exceed seven (7) days.
- F. *Commercial vehicle parking on residential lots or parcels.*
1. Any vehicle that requires the driver to have a Class A, B or C driver's license to operate shall be considered a commercial vehicle for the purpose of this Title.
 2. Only one (1) commercial vehicle and/or trailer shall be allowed per lot, except those associated with an active construction project.
 3. The vehicle and/or trailer shall belong to a resident of the dwelling on the lot on which the vehicle and/or trailer is located.
 4. The vehicle shall not exceed one (1) ton capacity. The trailer shall not exceed fifteen (15) feet.
 5. The vehicle and/or trailer shall be wholly located within the property boundary in a designated parking space on an improved surface.
- G. *Craft Manufacturing.* Production, storage, and distribution of products, or other on-site manufacturing, is allowed accessory to an otherwise allowed commercial use, provided below. Otherwise, such uses are only permitted as a principal manufacturing use.
1. The manufacturing area is no more than fifty (50) percent of the building area, and any outdoor storage is limited to all applicable site design and screening standards.
 2. That all manufacturing areas, warehousing, shipping and distribution facilities are clearly subordinate to the principal commercial use, and all manufacturing is to support the principal use.

3. No byproducts such as smell, waste, smoke or noise result from the manufacturing that is distinctly different or of greater intensity than the principal use.
 4. Traffic, customer, and shipping patterns and activities from the manufacturing use are not distinctly different from the principal commercial use in terms of intensity and hours of activity.
 5. Examples include microbrewery, bakery, furniture shop, art studio, or similar retail uses with limited and subordinate on-site manufacturing.
- H. *Fences, walls, and hedges.* Fences, walls, and hedges may be placed in appropriate locations in order to provide screening and enclosures in accordance with the following limitations:
1. Fences and walls shall be constructed of materials which are compatible with the surrounding improvements.
 2. Materials and maintenance.
 - a. No fence shall be constructed, in whole or in part, of concertina, razor wire, tin or wood scraps, unless installed by a government agency.
 - b. All fencing shall be constructed of brick, wood pickets, vinyl, wrought iron, decorative concrete block, steel, chain link or other material normally used for fencing and shall be constructed to conceal or integrate all structural members of the fence into the architectural design of the fence.
 - c. No barbed wire fence may be permitted within the City, unless approved by the Director. Any request for the installation of barbed wire fencing shall be accompanied by a written submittal explaining the purpose for such fencing and a design which allows for the installation of the fence which would ensure that the barbed wire fence shall not be constructed in a hazardous manner. Barbed wire fencing in industrial areas may be allowed provided that no more than three (3) strands of barbed wire are added to the height of a fence and provided the lowest strand of barbed wire is maintained at least six and one-half feet (6.5 FT) above the adjoining grade. Barbed wire required by Title 16 shall be exempt from this provision.
 3. Height.
 - a. Fences and walls which are located in required front yard setbacks shall not exceed four (4) feet in height above adjoining grade, except in industrial zone districts.
 - b. Other fences and walls shall not exceed six (6) feet in height as measured vertically from the surrounding grade, on all sides of the fence or wall, to the highest point of the fence or wall and shall comply with all applicable sight distance provisions, except:

- 1) Fences reviewed as part of an approved site plan for a nonresidential site, which may be allowed up to eight (8) feet in height; or
 - 2) Fences and walls installed by a government agency for the purpose of a traffic sound barrier, which shall be allowed to exceed the height limitation up to twelve (12) feet.
4. Within a sight distance triangle, fences are limited to three (3) feet tall, in accordance with adopted Engineering Standards and Specifications. Height changes, offset angles and the use of complementary materials may be used to create variety in fences and walls.
 5. Fences, walls and hedges shall not be located on any public right-of-way without the written consent of the City Engineer. The City may require such improvements to be removed or relocated by the adjacent property owner at no cost to the City.
 6. Fences, walls and hedges shall maintain a minimum clearance from fire hydrants as provided for in the latest edition of the International Fire Code, as adopted.
 7. Fences with pickets and adjacent to public right-of-way shall have the posts erected on the interior side of the fence so that the pickets are between the posts and the right-of-way.
- I. *Flammable storage.* The storage or handling of bulk gasoline and bulk flammable fertilizer, propane, natural gas or other flammable items is allowed as an accessory use in commercial and industrial zone districts. Storage and handling shall comply with any Evans Fire Protection District requirements at all times.
 - J. *Household pets, horses and other animals.*
 1. Areas in which animals are maintained shall not create odors, dust, noise or drainage which constitutes a hazard or nuisance to adjoining properties or uses.
 2. The housing and existence of animals shall be in accordance with Title 6 of this Code.
 3. *Livestock.* The limitations in Table 18-2-2: Animal Unit Equivalency Chart shall apply to the keeping of livestock as an accessory use to farming, residential uses, or any other use involving livestock. This chart shall not be used in a cumulative fashion. For example, in the AG (Agricultural) Zone District, there is a maximum of two (2) animal units permitted per acre. These animal units may be derived from a combination of animals, but in no event shall it exceed the maximum of two (2) animal units per acre.
 - a. Young stock, less than fifty percent (50%) adult weight, reduces the above equivalency factor by one-half (1/2).
 - b. "Per acre" refers to areas specifically devoted to animal use.

Table 18-2-2, Animal Unit Equivalency Chart

| Animal Species | Max Animals Per Acre | | Animal Unit Equivalent |
|---|----------------------|-------------|------------------------|
| | AG zone | Other zones | |
| Cattle, bison, elk, llamas, horses, mules, burros, yaks, alpacas | 2 | 1 | 1.0 |
| Swine — over 55 pounds, sheep, lamb, goats | 4 | 4 | 0.5 |
| Turkeys | 10 | 5 | 0.2 |
| Chickens, rabbits | 20 | 10 | 0.1 |
| Total Cumulative Animal Units Allowed Per Acre (combined species) | AG district | | 2.0 |
| | Other zones | | 1.0 |

K. *Home occupations.* Home occupations may be accessory to a primary residential use on the lot and shall meet all of the following standards:

1. The occupation shall be limited to residents of the dwelling and no other employees may be at the site for the purpose of conducting any part of the business operation. If the resident applicant is not the homeowner, the homeowner shall provide authorization with the permit application.
2. Areas dedicated to the use and storage for a home occupation shall not exceed more than twenty percent (20%) of the habitable floor area of the dwelling, except as may be required for a state-licensed child care home.
3. All activity shall be conducted within an enclosed living area, accessory building, or the garage, except as required for state-licensed in-home family child care.
4. Any materials or equipment used in the home occupation not customary to residential use shall be stored within an enclosed structure.
5. No alteration of the exterior of the principal residential building or site shall be made which changes the residential character of the building or site, including use of colors, materials, construction, lighting or signs.
6. No traffic, services, or deliveries shall be generated by the home occupation that is abnormal to a residential neighborhood. In general, this shall be limited to:
 - a. No more than one customer vehicle parked at the property at a time, except for drop off of children for child care or instruction;
 - b. No more than ten (10) client visits per week, except for drop off of children for child care or instruction.
 - c. Delivery of products or materials is limited to that normally associated with residential purposes.
7. All parking necessary for the use shall meet the neighborhood design standards, and be confined to the garage, driveway or street directly in front of the dwelling, except for customary agricultural vehicles and equipment at rural homes.

8. No equipment, machinery or operation shall be used in such activities that are perceptible off the premises because of noise, smoke, odor, dust, glare, radiation, electrical interference or vibration.
9. There shall be no retail operations that result in regular or intermittent customer visits to the home, except for the sale of agricultural produce at a rural home, where all merchandise was produced on site.
10. The property shall be in compliance with all other building codes and property maintenance standards.
11. Use of utilities shall be limited to those normally associated with residential purposes.
12. Prohibited home occupations. Certain home business uses have demonstrated a tendency to cause impacts to a neighborhood that are detrimental to the character and value of residential properties, and have associated impacts upon the public health, safety and general welfare in residential areas. The following uses, regardless of whether they meet the performance standards, are not permitted. These businesses shall include but are not limited to the following:
 - a. Equipment rental.
 - b. Funeral chapels, mortuaries or funeral homes.
 - c. Medical or dental clinics.
 - d. Repair or servicing of large appliances including stoves, refrigerators, washers and dryers.
 - e. Repair or servicing or painting of automobiles, motorcycles, trailers, boats and other vehicles.
 - f. Restaurants.
 - g. Storage of commercial equipment, such as for construction, oil and gas, et cetera.
 - h. Vehicle dispatching to and from residential premises. This prohibition includes, but is not limited to taxi services, towing services and the like.
 - i. Veterinary clinics, animal hospitals or kennels.
 - j. Wedding chapels.
13. All home occupations shall require a permit issued by the Director according to the following:
 - a. An application form and materials shall be submitted to the Community Development Department.
 - b. A concurrent business license application shall be submitted to the Finance Department for approval of a business license.

- c. A permit may be approved by the Director upon a finding that all criteria are met. The Director may require any additional conditions of limitations to ensure that the criteria continue to be met.
 - d. A permit is valid only for the original applicant, and is not transferable to another person or to another location.
 - e. The Director may revoke a permit for non-compliance with these criteria, violation of any conditions of the approval, misinformation or misrepresentation in the application, or a change in the nature or extent of the use, or any other circumstance that violates the public health, safety, and welfare.
- L. *Outdoor sales display.* Outdoor Sales Display shall be allowed as an accessory use in compliance with the following limitations:
- 1. Shall be located within the front of commercial business selling/renting product, not to exceed seventy-five percent (75%) of linear frontage.
 - 2. Shall not block entrances nor exits, safety equipment or doors.
 - 3. Shall not block the minimum sidewalk depth for commercial space, nor block driveway or use of parking spaces.
 - 4. The maximum amount of product display under a gas station canopy or within a gas station service area shall not exceed one hundred (100) square feet.
- M. *Outdoor storage, nonresidential.* Accessory outdoor storage may be permitted where indicated in Table 18-2-1, subject to the following standards in addition to those standards applicable to all outdoor storage in Section 18.02.020.C.30 of this Chapter:
- 1. The storage area shall be located behind the front building line of the principal building.
 - 2. The storage area shall be located in the most remote section of the site or building possible, no closer than thirty (30) feet to any street or right-of-way.
 - 3. The storage area shall be limited to twenty percent (20%) of property area in commercial zone districts.
 - 4. The storage area shall be paved per the requirements for parking lots in commercial zone districts and a stabilized dust-free surface or pavement may be used in industrial zone districts.
 - 5. No materials shall be stacked higher than the screening.
- N. *Recreational vehicle (RV), boat and trailer storage.*
- 1. Only one (1) RV, boat or trailer shall be located on a residential lot.
 - 2. Any stored RV, boat or trailer shall be registered to the property owner or tenant of the property on which it is located.

3. The RV, boat or trailer shall be stored in the rear yard, screened by a privacy fence at least five (5) feet from a property line.
 4. The RV, boat or trailer may be allowed in the front yard for cleaning and maintenance for a twenty-four-hour (24 hr.) period with advance notice to the City.
- O. *Temporary Construction or Sales Office.* A temporary construction or sales office that is accessory to a permitted development project shall comply with the following:
1. The office shall be located on a lot within or adjacent to the construction site.
 2. The office may be permitted on the site until seventy-five percent (75%) of the project is built out.
 3. If the office is intended as a model home, it shall be completed to meet all Building and Zoning Code requirements.
- P. *Temporary structure.* A structure that is designed to be used temporarily; such as a tent, canopy, or other temporary work or storage space; shall comply with the following:
1. The structure shall meet all setback requirements that would apply to a permanent structure.
 2. The structure shall be removed at the end of twelve (12) months in accordance with the definition of “temporary” in Chapter 18.11, unless the Director has approved an extension, not to exceed twenty-four (24) months.
- Q. *Wireless communication equipment.* Wireless communication equipment that is the principal use or equipment that is over forty (40) feet tall shall be permitted in accordance with Chapter 18.10 of this Title. Any accessory wireless communication equipment used to transmit and receive radio, television or communication signals that is placed on a tower less than forty (40) feet tall shall comply with the following standards:
1. The placement of all equipment shall conform to all standards of the zone district and shall not be located in any required setback or on any structure unless architecturally screened.
 2. The height of the tower shall not exceed forty (40) feet.
 3. The operation of the antenna shall not cause interference with any electrical equipment in the surrounding neighborhood, such as television, radio, telephone or computers unless exempted by federal regulation.
 4. Any tower, antenna, or equipment shall be a single, non-reflective color.
 5. The antenna shall be sited to assure compatibility with surrounding development and not adversely impact the neighborhood.
 6. The antenna and equipment shall be accessory to the principal use of the lot or site.

18.02.050 Temporary uses.

A. *Intent.* To provide for the regulation of temporary and seasonal uses for selling a product, food, or to provide a temporary service which is for a short duration or seasonal in nature and to address the impact of these uses on surrounding properties, including aesthetics and economic development. Temporary uses may be permitted through a temporary use permit in lieu of a site plan review. Temporary uses are required to meet all applicable standards of the zone district.

1. Mobile food vendors are not considered temporary uses and are regulated by Chapter 11 of Title 5 of this Code.

B. *Temporary uses allowed.* Temporary uses shall be limited to the following uses:

- 1. Christmas tree lot.
- 2. Agricultural product.
- 3. Fireworks stand.
- 4. Carnival, circus, or similar festival.
- 5. Open air market, such as a flea market or farmers market, subject to additional requirements in Title 5 of this Code.
- 6. Promotional event on the same site as the principal use and shall be no greater than two thousand (2,000) square feet in area.
- 7. Combative sporting or boxing event, as permitted under Title 12, C.R.S., known as the Colorado Professional Boxing Safety Act or rules issued by the Colorado Combative Sports Commission created in Section 12-110-106, C.R.S.

C. *Temporary use permit.* An application for a temporary use permit shall be submitted by the landowner, or an agent of the landowner with written permission from the owner at least thirty (30) days prior to the desired issue date if City Council approval is required and fourteen (14) days prior to the desired issue date if no City Council approval is required.

- 1. The permit shall have a specified start and end date not more than ninety (90) days per year or be based on a schedule that includes no more than ninety (90) days per year.
- 2. The applicant shall submit a complete description of the event or activity, including anticipated traffic, hours and peak times of operation, access and circulation plans, the ability to accommodate fire and police access, and any need for special protection or other public safety, health and welfare needs. A noise event permit may be required.
- 3. The applicant shall submit a plan identifying the extent of the grounds, gathering places and circulation routes, any streets or public spaces to be dedicated to the event, the location of all structures, equipment or other accessory facilities, and any utility needs for these structures, equipment or fixtures.

4. The Community Development Department shall review the request, sending the application to any applicable referral agencies for a review period not to exceed seven (7) days.
 5. Within fourteen (14) days of submittal, the Director shall make a decision to approve or deny the temporary use permit based on compliance with applicable standards and review criteria or submit a recommendation to approve or deny the permit to City Council. The temporary use permit may be conditioned to improve compatibility.
 6. The Director may extend the permit one time for up to an additional thirty (30) days. The extension shall only be permitted based on circumstances not foreseeable at the time of the original permit and provided no problems have arisen under the original permit.
- D. *Standards.* All activities and any temporary structures shall meet the zone district setbacks and standards, with the exception of the following:
1. Parking requirements shall generally be met for the principal use and the temporary use, except that the Director may account for any existing and underutilized parking, the duration of the event, and any transportation management when considering the permit criteria.
 2. Garage sales for residential property are not subject to the standards of this section or required to get a permit, provided:
 - a. It is operated by the owner or resident of the property;
 - b. It is for goods not acquired specifically for resale; and
 - c. It is limited to no more than three (3) consecutive days, and no more than two (2) events per calendar year.
- E. *Review Criteria.* A temporary use permit shall be evaluated based on the following:
1. The proposed use is of a scale, intensity and format that is ordinarily occurring in the vicinity considering the size, anticipated traffic, hours of operation and duration of the event.
 2. The anticipated traffic and parking can be handled by the existing street network, site access and lot layout, or the applicant has demonstrated sufficient management strategies and procedures to mitigate any potential negative effects on the area.
 3. Potential negative impacts are mitigated, including limiting hours of operation, buffers and screening, transportation management, or other evidence or plans to accommodate concerns and limit impacts on surrounding property owners or residents. Other conditions may be imposed upon a permit necessary to protect the public health, safety, and welfare.
 4. The use shall comply with all other applicable codes, licenses, or other public health, safety, and welfare requirements.

18.02.060 Mobile Food Vendors

- A. *Intent.* This section is intended to provide regulations for mobile food vendors. Mobile food vending means the use of a legal motorized wheeled vehicle, legal towed wheeled vehicle, or pushcart, or other temporary operation designed and equipped to prepare and/or serve food and/or non-alcoholic beverages. A mobile food vendor is required to obtain a permit to operate within the City of Evans.

- B. *Standards.* Mobile food vendors shall comply with the following standards:
 - 1. No vendor may use, for the purpose of on-site storage, display or sale, any vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device not described on the face of the license.

 - 2. No such vehicle, structure or device referred to in Subsection A of this Section shall be located:
 - a. In any public parking space in a manner that does not comply with applicable parking regulations.

 - b. Upon a public right-of-way, or public street, alley or sidewalk within a city park or other city property unless vending is pursuant to a concession agreement or other agreement with the city.

 - c. In any location in which the vehicle, structure or device may impede or interfere with or visually obstruct:
 - 1) The safe movement of vehicular and pedestrian traffic;
 - 2) Parking lot circulation; or
 - 3) Access to any public street, alley or sidewalk.

 - 3. No vendor shall operate during the hours of midnight to 5:00 a.m. and must remove the vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device from the location unless vendor owns or has a lease for the property on which the vending vehicle is located.

 - 4. Every vendor must obtain the written consent of the property owner of the property on which the vending vehicle is located.

 - 5. No vendor may provide drive-in or drive-through services to the vending vehicle.

 - 6. Each vendor who, during the course of its licensed activities, operates within or enters upon a public right-of-way or publicly owned property shall maintain liability insurance. Any vendor who fails to provide proof of such insurance shall be prohibited from operating within or entering upon such property.

 - 7. Each vendor shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers or any litter which is deposited within twenty-five (25) feet of the designated location or within twenty-five (25) feet of the point of any sale or transaction made by the vendor if the radius of the designated location exceeds twenty-five (25) feet. The vendor shall carry a suitable container for the placement of such litter by customers or others.

8. Each vendor shall maintain in safe condition any vehicle, structure or device as described in Subsection A of this section, so as not to create an unreasonable risk of harm to the person or property of others, and shall use flashing lights and other similar warning and safety indicators when stopped to vend services in any location in a street right-of-way.
 9. No vendor shall leave unattended any vehicle on a public right-of-way or on public property.
 10. Each vendor shall prominently display the license issued hereunder in a location readily visible to the public on each vehicle.
 11. Each vendor operating in an on-street location must serve the public only from the sidewalk or curbside and not from the street or adjacent parking spaces.
 12. Each vendor shall comply with the provisions of all applicable ordinances of the city as well as the requirements of all state and federal laws, including, but not limited to, noise restrictions, fire code, sign regulations, limitations on discharge of liquid waste, sales and use tax requirements and food safety and other related requirements established by state or county regulation.
 13. Mobile food vendors shall vend alcohol only with an approved liquor license.
 14. Any signage shall be permanently affixed to or painted on the mobile food truck, with no signs or banners in or alongside street right-of-way or across roadways.
- C. Enforcement. In addition to other penalties for violating this Code, the Director has the authority to revoke the mobile food vendor permit for any mobile food vendor who fails to comply with the standards in Section 18.02.060.B. If the permit is revoked, the mobile food vendor may not reapply for one calendar year. Failure to comply with the standards may also result in denial of a business license for the next calendar year.

[Repeal and replace Chapter 18.03]

CHAPTER 18.03 PROCEDURE

18.03.010 Intent.

The intent of this Chapter is to provide the framework to evaluate land development applications.

18.03.020. General procedure summary.

- A. The following applicants are eligible to apply for land development under this Title:
 1. *Owner.* The property owner of record for the subject property of the application or that owner's agent authorized by written permission of the owner.
 2. *Planning Commission.* The Planning Commission, acting on its own initiative or through recommendations brought to it by City staff, and according to its rules of procedure.
 3. *City Council.* The City Council acting on its own initiative or through recommendations brought by City staff or the Planning Commission, and according to its rules of procedure.
- B. Table 18-3-1 identifies the procedural steps required for specific land development application types. Subsequent sections in this Chapter further clarify the procedures. The following defines terms and symbols in the table.
 1. "■" means required.
 2. "□" means at the option of the Director.
 3. "R" means recommending authority.
 4. "D" means decision making authority.
 5. "PH" means public hearing required.
 6. "AC" means acceptance of public improvements.
 7. "Appeal" means the appellate authority for an appeal of a decision.
 8. "Pre-app" means pre-application meeting, addressed in Subsection C.
 9. "SPO Meeting" means a neighborhood meeting with surrounding property owners prior to submittal of an application, addressed in Subsection D.
 10. "Ref" means external referral review, addressed in Subsection K.
 11. Notice, including "post," "publish," and "mail" are addressed in Subsection N.
 12. "ZBA" means Zoning Board of Appeals.
 13. "PC" means Planning Commission.
 14. "CC" means City Council.

Table 18-3-1, Land Development Application Procedure

| | Applications | Pre App | SPO Meeting | Ref | Notice | | | Review Body | | | |
|---------------------|-----------------------------------|---------|-------------|-----|--------|---------|------|-------------|--------|------------|------|
| | | | | | Post | Publish | Mail | Staff | ZBA | PC | CC |
| SUBDIVISION | Minor Plat | ■ | | ■ | | | □ | D | Appeal | | |
| | Preliminary Plan | ■ | □ | ■ | ■ | ■ | ■ | R | | R/PH | D |
| | Final Plat | ■ | | ■ | | | | D | Appeal | | Ac |
| ZONING | Annexation & Initial Zoning | ■ | □ | ■ | ■ | ■ | ■ | R | | R (zoning) | D/PH |
| | Rezoning | ■ | □ | ■ | ■ | ■ | ■ | R | | R/PH | D/PH |
| | Special Use Permit | ■ | □ | ■ | ■ | ■ | ■ | R | | R/PH | D |
| | Site Plan | ■ | | ■ | | | □ | D | Appeal | | |
| VACATION DEDICATION | Easement | | | ■ | | | □ | D | Appeal | | Ac |
| | Right-of-way | | | ■ | | ■ | □ | R | | | D |
| VARIANCE & APPEAL | Minor Variance | ■ | | □ | | | | D | Appeal | | |
| | Variance | ■ | | ■ | ■ | ■ | ■ | R | D/PH | | |
| | Appeal of Administrative Decision | | | | □ | □ | □ | | D/PH | | |
| CH 18.02 PERMITS | Home Occupation | | | □ | | | | D | Appeal | | |
| | Mobile Food Vendor | | | □ | | | | D | Appeal | | |
| | Temporary Use | | | □ | | | | D | Appeal | | |

- C. *Pre-application Meeting.* Pre-application meetings may be requested by a potential applicant for any application and shall be required as indicated in Table 18-3-1. A required pre-application meeting may be waived at the Director's discretion and upon the applicant's request for routine applications where the topics below can be addressed by general correspondence. The applicant shall submit schematic plans, existing conditions analysis, or other concepts and analysis in writing prior to the pre-application meeting to facilitate discussion on the following topics:
1. How the proposed project meets the goals of the Master Plan, or other specific plans or policies that may impact the application.
 2. The applicant's vision and understanding of the market for the proposed project.

3. The proposed uses, general site layout, and conceptual or anticipated design of buildings, including how the project relates to surrounding sites and public spaces.
4. How the project will fit in and contribute to the area and further the intent of the existing or proposed zoning district.
5. Planning and infrastructure impacts, including timing, phasing, or the need for any technical studies or outside agency coordination and review.
6. Development review processes and review criteria, and in particular whether any special public information and outreach or specific agency or department reviews are necessary.
7. Opportunities to improve designs or coordinate the preliminary concepts with other private or public investments in the area.
8. Determination.

D. *Neighborhood Meeting.* A neighborhood meeting may be required prior to the formal public meeting as indicated in Table 18-3-1.

1. *Director Option.* At the pre-application meeting or in association with the review of an application, the Director may require a neighborhood meeting for any project that requires formal review beyond staff, and where:
 2. The nature of the project is complex or presents potential for significant changes and unanticipated impacts on property in the vicinity;
 3. The intensity of the proposed use or development is likely to present questions and concerns for adjacent property owners, beyond what may typically be allowed in the zoning district; or
 4. The required notice or any courtesy notice sent to property owners generates significant questions or concerns.
5. *Meeting Format.* Neighborhood meetings shall meet the following:
 6. The meeting shall be held at a convenient and accessible public meeting facility within the general vicinity of the project, such as a school or community recreation center.
 7. The applicant is responsible for all content of the meeting, which at a minimum shall include:
 - a. The general nature and scope of the proposed project;

- b. A summary of the proposed land use, including planned and potential future uses associated with the application;
 - c. The most recent plans and submittals available for the project, depicting the scale, location and design of any buildings and the relation of all site improvements to the streets and adjacent property; and
 - d. Identification and explanation of the subsequent formal review steps with the City, noting that official and formal review by the City may result in changes from the initial concepts.
 - 8. The applicant shall prepare minutes of the meeting including evidence of the notice, attendance, a copy of any presentation materials, a summary of the discussion and issues, and any outcomes or changes from the meeting. These minutes shall supplement the formal application.
- E. *Forms.* Applications required under this Title shall be submitted to the Community Development Department in the form and format specified by the Department. The Director is authorized to establish submittal requirements and procedures in order to ensure all applications can be evaluated for conformance with this Code. The Director may waive the requirement for specific information at the time of application, due to the routine nature of the application or due to the context of a particular application making the information inapplicable for review against the standards and criteria of this Title.
- 1. Responsibility for complete and proper application submittal shall be that of the applicant. Failure to do so will result in rejecting, delay or denial of the application.
 - 2. If any part of an application is found to be intentionally misleading, intentionally inaccurate, or fraudulent, the application shall be rejected, and any subsequent approval may be revoked.
- F. *Fees.* Applications shall be accompanied by a non-refundable fee. The amount of the fees charged shall be established by resolution of the City Council filed in the office of the City Clerk. No application shall be accepted or processed without the required fee, except applications initiated by the City. The City will bill developers for any and all costs of professional or consulting services which the City incurs as a result of a developer or their project. Professional or consulting services include but are not limited to legal, engineering, financial advisor, geological hydrological, surveying, or planning services. The applicant shall pay the City the actual costs of these professional or consulting services plus fifteen percent (15%) to cover administrative costs.

1. The City will send the applicant a statement for the actual and administrative costs incurred by the City pursuant to Subsection (2) above. The applicant shall pay the City the amount due on the statement within fifteen (15) days of the date of the issuance of such statement. In the event the applicant fails to pay the amount due on the statement within the time period specified above, the City shall immediately stop the review process for the proposed development. The application will be deemed withdrawn if the statement is not paid in full within thirty (30) days of the date of the issuance of the statement. If the City anticipates incurring substantial expenses in connection with an application, the City may require the applicant to provide and maintain an advance deposit with the City in an amount reasonably determined by the Director.
2. Additionally, the City possesses the right to initiate an enforcement action against the applicant for nonpayment of such fees. In the event such collection action is determined in favor of the City, the City shall be awarded its attorneys' fees and court costs in addition to the unpaid fees as part of any judgment.
3. The payment of fees and costs of professional and consulting services under this Section shall be due and payable as set forth within this Section, regardless of whether the project is completed, approved and/or regardless of whether the owner or developer chooses to complete the land review process under this Title.
4. The applicant shall pay any impact fees as established by City ordinances or resolution in effect at the time the development application is approved by City Council. The impact fees shall be paid at the time specified by such ordinance or resolution; or in any event, prior to issuance of the first building permit.

G. *Technical Studies.* The Director, on behalf of any public official, department, or agency, the Planning Commission, or the City Council, may require applicants to submit technical studies necessary to evaluate the application. Technical review by outside entities with expertise or jurisdiction over details of the application may be required in place of, in addition to, or in association with any studies. Examples of technical studies that may be required include traffic studies, engineering studies, geologic or hydrologic studies, environmental impact assessments, noise studies, market studies, or fiscal and economic impact studies. The persons or firms preparing the studies shall be subject to the approval of the Director. The costs of all studies shall be borne by the applicant. Any application that is determined to require technical studies or review from entities outside of the City may require special schedules based on the reasonable time frames to conduct those studies or additional reviews.

H. Concurrent Applications

1. Concurrent Applications. A project may require approval under more than one type of application.
 2. The Director may determine that each application may run concurrently based on the following:
 - a. The similarity of information required for each type of application, or where they require different information, the ability to coordinate information, review criteria and decisions under each application.
 - b. The similarity of notice, review meetings and review bodies required for each application.
 - c. The ability of the staff and review bodies to make effective decisions when reviewing the applications concurrently.
 3. In cases where the Director determines applications may run concurrently, the application shall be processed through the most comprehensive required review, and lessor incorporated approvals may be conditioned on final outcomes of the last of the related decisions.
- I. Application acceptance. City staff shall create applications requiring items that are necessary to adequately address the review criteria and notice requirements for each application type. Upon receipt of an application, the staff shall take the following steps:
1. The Planner shall have fourteen (14) days to determine if all required applications items have been submitted and in the correct format.
 2. If an application is determined incomplete, the Planner shall notify the applicant of the specific deficiencies. No further processing of the application shall occur until the deficiencies are corrected.
 3. If an application is complete, it shall be processed for formal review and fees collected.
- J. *Referrals*. The following agencies may be required to review and comment on applications. The Planner may determine if other referral agencies may be affected by the project, based on the application, and has discretion to add any other relevant or applicable agency to the list. If no response is received from a referral agency by the end of the twenty-one-day (21-day) referral period, it will be assumed there are no concerns. A referral agency may request an extension not to exceed twenty-one (21) additional days from the Director.
1. Adjacent or other local governments;
 2. Colorado Department of Transportation;
 3. Colorado Division of Water Resources (Office of the State Engineer),
 4. Colorado Parks and Wildlife;

5. Colorado Geologic Survey;
 6. Gas and electric utilities;
 7. Telecommunications and cable providers;
 8. Public safety agencies (police, fire, EMS, health);
 9. Respective school district(s) in which the subject property is located;
 10. Water and sewer utilities;
 11. Ditch companies;
 12. Special districts; and
 13. Other relevant local, state, or federal government agencies.
- K. *Review and Staff Comments.* The Director shall coordinate a staff review after receipt of a complete application.
1. Staff shall provide written comments or recommended changes based on the results of any referral agency comments, neighborhood meetings, or staff review within sixty (60) days of receiving payment for a complete application or such additional time as staff deems necessary. The applicant may be asked to submit supplemental information necessary to support the application or to address any comments or recommended changes.
 2. If the applicant chooses not to address any particular comment or recommended change, a written statement shall be included with the resubmittal that demonstrates a good faith effort to address the issue and justify why the comment was not addressed. The applicant may then request to schedule the application for consideration by the decision-making body.
 3. *Scheduling.* Applications that have completed staff review, and for which the applicant has addressed comments or recommended changes, shall be scheduled for further review according to these regulations.
 4. *Staff Report.* Staff shall prepare a report for applications that require review and decisions by other review bodies. The report shall identify the policies, plans, regulations, and review criteria, and identify relevant facts of the application. The Director shall provide the report to the reviewing body and to the applicant in association with the public meeting agendas and packets.
- L. *Resubmittals.*
- a. Six (6) months will be granted to applicants to resubmit applications determined to be in need of revision.
 - b. If an applicant requires more time to revise the application, an extension shall be requested and an extension fee shall be paid. The Director may approve

an extension not to exceed an additional six (6) months for a total period not to exceed twelve (12) months upon a finding of excusable neglect.

- c. Any application in need of revision that remains inactive for more than six (6) months from the date the revision was requested, and for which no extension is requested, shall be void and any related fees are forfeited.

M. *Notice.* Notice shall be provided for each application as indicated in Table 18-3-1. Consistent with the provisions in Table 18-3-1, and in addition to the general publication of meeting agendas, required notice may include the following:

1. *Published.* Where published notice is required, the City shall post the notice on the public notice portion of the City's website as the official newspaper of general circulation at least fourteen (14) days prior to the meeting or hearing. The notice shall include:

- a. A general description of the subject property by reference to streets and address;
- b. The zoning classification, specific use or action requested;
- c. The date, time, and place of the public meeting; and
- d. A statement that additional information about the request is available at the Community Development Department or other links to relevant information.

2. *Posted.* Where posted notice is required, notice shall be posted on the property or near the proposed site, visible to surrounding properties and the general public from adjacent public ways, according to the following:

- a. The City shall supply the sign(s), which shall include:
 - 1) "Land Use Proposal Under Review;"
 - 2) Case number;
 - 3) Phone number; and
 - 4) Website.
- b. One (1) sign facing the most prominent public street is required. The Director may require additional signs and specific locations of signs based on the context of the property.
- c. The applicant shall ensure that all signs are posted at least fourteen (14) days prior to the first public hearing or meeting.

- d. The applicant shall make a good faith effort to maintain posted notice throughout the proceedings.
3. *Mailed.* When mailed notice is required, a courtesy letter shall be sent to all record landowners within five hundred (500) feet of the property.
- a. The city shall supply the list of owners, and the applicant is responsible for mailing notice.
 - b. The notice shall be mailed at least fourteen (14) days prior to the public meeting.
 - c. Mailed notice shall state the following:
 - 1) A general description of the subject property by reference to streets and address.
 - 2) The zoning classification, specific use or action requested, and a general description of the project.
 - 3) A legal description or abbreviated legal description of the property.
 - 4) A statement that additional information about the application is available at the Community Development Department.
 - 5) If a public meeting is required, the date, time and place of the public meeting; whether the meeting is a public hearing where participants will have a right to speak, present testimony or evidence, and establish a record for the decision; or if it is a public meeting without that right.
4. *Failure of Notice.* Any failure of published, posted or mailed notice shall not invalidate any subsequent process or decision, in the Director's discretion. In making this decision, the Director shall consider whether:
- a. Good faith efforts were made to comply with notice, and the failure of notice was beyond the applicant's control;
 - b. Technical errors in the notice were made, but constructive and actual notice was available to all interested parties; or
 - c. The failure of notice is not otherwise instrumental to the proceedings, criteria, or record established for the decision.
5. *Surface Development Notice.* Where mailed notice is required by state statutes for any project related to mineral estate owners identified on the county tax assessor records or who have filed in the office of the Weld County Clerk and Recorder a request for notification, the applicant shall be responsible for

notice. The applicant shall certify that notice has been provided as required by this Title and Colorado law prior to a public hearing.

N. *Public Hearings.* Where public hearings are required by Table 18-3-1, the following procedures apply:

1. The hearing shall be conducted and a record of the proceedings shall be preserved.
2. Any interested person or party may appear and be heard in person or by agent.
3. The review body may request testimony or a report on the application from any government official or agency, or any other person with information pertinent to the application.
4. A public hearing for which proper notice was given may be continued to a later date without again requiring notice, provided the specific date, time, and place of the continued hearing is announced at the original hearing.
5. If the review body is a recommending body, the recommendation shall be forwarded to the decision-making body.
6. A review body is authorized to establish meeting procedures and bylaws, or otherwise state rules regarding specific conduct and management of public hearings, within the parameters of these regulations.

O. *Action by Review Bodies.* Review bodies shall take the actions indicated in Table 18-3-

1. A review body may take any action on the application consistent with notice given and based on the criteria in this chapter, or it may recommend such action when the review body is a recommending body, including the following:
 - a. Approve the application.
 - b. Approve the application with conditions or modifications that make it more consistent with the standards and review criteria. Conditions shall include a deadline for completion not to exceed six (6) months.
 - c. Deny the application, making specific findings or stating criteria for the denial.
 - d. Continue the application to allow further analysis. The continuation period shall not be more than sixty (60) days from the original review without the consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

2. Determination.

- a. Any approval of an application for which a grading permit or building permit has not been issued or for which the special use has not commenced within six (6) months after approval of the site plan or special use shall be null and void. All variance approvals not exercised within six (6) months from the date of approval shall become null and void. An extension of time of up to ninety (90) days may be granted by the Director for good cause. Any denial of the extension may be appealed to the Planning Commission. If denied, the applicant may resubmit a new application and fees for the same project.
- b. Upon denial of any land use application, the same or similar application, as determined by the Director, may not be resubmitted for a period of six (6) months commencing from the date of denial. The determination of the Director may be appealed to the City Council in writing within ten (10) working days of the Director's decision.

P. *Plat or plan recording.*

1. In addition to the recording of resolutions and ordinances associated with land development cases, the City Clerk shall record the associated approved plat or plan with the Weld County Clerk and Recorder within sixty (60) days. The Director may grant an extension of this period for up to ninety (90) days in order to complete any agreement, or otherwise address the timing and implementation of improvements. Any minor plat not recorded within this time shall expire.
2. Recording is required for minor plats, final subdivision plats, rezoning plats, annexation plats, and site plans.

Q. *Plat Correction.* The Director may approve a survey or other legal instrument to correct an error in the legal description or other element of an approved plat; to dedicate, vacate, or alter easements; or to confirm legal boundaries of lots in an approved plat that could only be determined post-construction, such as for duplexes or row houses where the units and lots are individually owned without following the procedures described in Section 18.03.010 or 18.03.020. The correction shall be recorded with the Weld County Clerk and Recorder.

R. *Appeals.* The following appeal procedures apply:

1. Appeals shall be filed with the City Clerk within ten days of the decision by the decision-making review body.
 - a. Appeals shall identify the exact provisions in dispute, and must set forth particular facts or law explaining how the decision maker exceeded its

jurisdiction or abused its discretion in reaching a conclusion that is not reasonably supported by the facts or which failed to apply applicable review criteria.

2. Appeals may be filed by:

- a. The applicant;
- b. Any person who is entitled to mailed notice; or
- c. Any director of a city department or referral agency that provided comments on an application.

3. Appellate procedure.

- a. Table 18-3-1 designates the appellate body for review of decisions made by the Director.
- b. Where no further appeal is designated in Table 18-3-1, the decision shall be final and only appealed as authorized by state law.
- c. When applicable under Table 18-3-1, the appellate body shall consider the appeal within a reasonable time, considering the next available meeting and the nature of the appeal. The appeal shall be based on the established record, and give deference to the previous review body or city official; however, the appellate body may take any action authorized by the decision-making body under this Title if it determines that a clear error was made. The procedure and required notice for an appeal shall be the same as required of the original application.

- S. *Application after denial.* When the review body takes final action to deny an application, the same or a similar application may not be refiled for one (1) year from date of denial, except as allowed under this section. The Director may permit a refiling of the application sooner than one year when it is determined that significant physical, economic, or land use changes have taken place within the immediate vicinity, or where a significant text amendment to this Title has been adopted that may affect the outcome. There shall be no time limitation on an application that the Director determines is substantially different from a previously denied application, considering the proposed use, scale or intensity of development, and potential impacts on adjacent property.

18.03.020. Minor plat.

- A. *Applicability.* Minor plats are routine applications that establish or alter legal boundaries of lots or tracts, but do not significantly alter development patterns or impact public

improvements and facilities. Minor plat applications may be initiated by the property owner.

1. *Eligibility.* The following must be true in order to apply for a minor plat. Any application not classified as a minor plat or not meeting these criteria shall be processed as a major subdivision with a preliminary and final plat.
 - a. No new streets or other public land dedication is needed. If additional right-of-way for existing streets is included with a minor plat, acceptance of the dedication by City Council is required.
 - b. No significant increase in service requirements (utilities, schools, traffic control, streets, etc.) or impact on the ability to maintain existing service levels will result.
 - c. No other significant issues exist with potential development enabled by the plat that could impact planning policies in the area or adjacent property owners.
 2. The following actions may be processed as minor plats:
 - a. *Minor Subdivision.* The division of unplatted land or the replat of previously platted lots or tracts into ten (10) or fewer lots for residential purposes; or six (6) or fewer lots for any non-residential purposes, or the division of land where all resulting lots or tracts are more than thirty-five (35) acres.
 - b. *Lot Line Adjustment.* The alteration of internal legal boundaries for up to ten (10) previously platted lots or unplatted parcels.
 - c. *Lot Consolidation.* The consolidation of previously platted lots or parcels into fewer lots.
 - d. *Condominium Plat.* The division of a building on an existing, legally platted lot into individual air space ownership units, relative to commonly owned elements and common area covenants and agreements.
- B. *Review Criteria.* A minor plat may be approved by the Director if the Director determines that all of the following are met.
1. The minor plat conforms to the subdivision design standards in Chapter 18.04 of this Title.
 2. The subdivision conforms to the applicable residential or nonresidential development standards in Chapters 18.05 and 18.06 of this Title.
 3. The subdivision design coordinates with existing adjacent development.

4. The subdivision conforms to future development plans in the Master Plan and any other applicable municipal planning documents.
5. The lot pattern is compatible with any previously approved preliminary plan or final plat for the subject property.
6. The subdivision design meets the requirements of applicable zone district standards.
7. The applicant demonstrates a preliminary likelihood of being able to meet the design, construction, performance, and maintenance requirements for all required improvements.
8. The subdivision is arranged in a manner to minimize impacts on geologic hazards, environmentally sensitive areas, wildlife habitat, or other natural features of the land.
9. Any impacts identified by specific studies or technical reports, including a review of storm water, are mitigated with generally accepted and sound planning, engineering, and urban design solutions that reflect long-term solutions and sound fiscal investments.
10. All required improvements, water rights, dedications, fees, financial guarantees, and maintenance guarantees are provided.
11. A condominium plat shall meet the following additional criteria:
 - a. Consistent with an approved plat demonstrating legal ownership of the lot and any common areas by a single entity.
 - b. Consistent with a site plan depicting the building to be subdivided into individual units.
 - c. Documentation that assigns responsibility and demonstrates capacity to maintain all common ownership elements.
 - d. Covenants, declarations or party wall agreements or other restrictions to be recorded establish rights and responsibilities for owners of individual units, and designation of all general and limited common elements.
 - e. The site and building comply with all aspects of this Title, other than the proposal to divide individual airspace units for common ownership.

C. *Review Procedures.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the requirements in this subsection apply to minor plat applications:

1. If the Director determines at any point in the process that the application is not eligible for a minor plat, the Director may deny the application or allow the

applicant to reclassify as a major subdivision, requiring additional information and fees.

2. If a minor plat includes additions to existing right-of-way, the minor plat shall be placed on the consent agenda for the City Council to accept the dedication.

18.03.030. Major subdivision.

- A. *Applicability.* Major subdivisions apply to all land divisions or other alterations of legal boundaries of lots or tracts that are ineligible for minor subdivision processes in Section 18.03.020. Major subdivision applications may be initiated by the property owner. Major subdivisions require comprehensive review through separate preliminary and final plat procedures, due to the complexity of coordinating planning, design and engineering requirements. In accordance with Section 18.03.010.B, the Planner may determine at a pre-application conference that a preliminary plan and final plat may be submitted concurrently, where the application is small or routine.
- B. *Preliminary Plan.* The preliminary plan provides detailed planning review of development patterns, street networks, block and lot layout, and the ability to meet public facility and utility requirements for future development, prior to preparation of detailed construction and engineering plans. A preliminary plan shall be processed according to the following specific procedures.
 1. *Review Criteria.* A preliminary plan shall be reviewed according to the following criteria:
 - a. The subdivision conforms to the subdivision design standards in Chapter 18.04 of this Title.
 - b. The subdivision conforms to the applicable residential or nonresidential development standards in Chapters 18.05 and 18.06 of this Title.
 - c. The subdivision design coordinates with existing adjacent development.
 - d. The subdivision conforms to future development plans in the Master Plan and any other applicable municipal planning documents.
 - e. The subdivision design meets the requirements of applicable zone district standards.
 - f. The applicant demonstrates a preliminary likelihood of being able to meet the design, construction, performance, and maintenance requirements for all required improvements.
 - g. The subdivision is arranged in a manner to minimize impacts on geologic hazards, environmentally sensitive areas, wildlife habitat, or other natural features of the land.

- 3) The change does not violate any condition associated with the approval of the preliminary plan;
 - 4) If technical studies were required with the preliminary plan, the author of the study shall submit an amendment noting that the change does not impact any findings of the study; and
 - 5) The number of lots, dwelling units, buildings, or sizes of blocks and open spaces does not change by more than ten percent (10%).
- b. All required improvements, water rights, dedications, fees, financial guarantees, and maintenance guarantees are provided.
 - c. The phasing and timing of public improvements ensures construction and performance guarantees. Any phasing that meets an approved preliminary plan is presumed acceptable. Any deviations of the final plats from an approved phasing plan may be approved provided it does not alter the timing or coordination of required improvements or amenities for the proposed final plat or any previously approved final plats.
2. *Review Procedure.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the requirements in this section apply to final plat applications:
 - a. The applicant shall identify all improvements to be constructed, either according to the required improvements listed this Code or by a specific agreement for the project for planned unit developments. The applicant shall submit final plans and specifications for these improvements, and ensure construction of these improvements of financial guarantees as provided in Chapter 18.04 of this Title.
 - b. Any final plat approved by the Director which includes dedication of rights-of-way, public lands or other public improvements, shall be placed on the consent agenda for the City Council to accept the dedication.

18.03.040. Rezoning.

- A. *Applicability.* The rezoning process provides review of changes to the boundary of zoning districts that may be necessary to implement the Master Plan, to account for changed conditions in the general area, or to reflect a change in policies with respect to future development. Application for a rezoning may be filed by the property owner, the City Council, or the Planning Commission, or by City Staff.
- B. *Review Criteria.* Review, recommendations and decisions for a proposed rezoning shall be based on the following criteria:
 1. The proposal is in accordance with the goals and objectives of the Master Plan and any other plan, policy or guidance adopted pursuant to that plan.

2. The uses allowed in the proposed zone district will be compatible with the surrounding land uses.
 3. The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed zone district.
 4. The rezoning will serve a community need, provide an amenity or accommodate development that is not possible under the current zoning.
- C. *Review Procedure.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the requirements in this subsection apply to rezoning applications:
1. The City Council decision is effective immediately, rather than the date the rezoning plat is recorded.
 2. City staff shall make the change to the digital official zoning map.
 3. The zoning shall remain in effect unless changed by the City Council according to the procedures specified in these regulations.

18.03.060. Site plan.

- A. *Applicability.* Review of a site plan ensures that development complies with the standards of this Title, including compatible arrangement of buildings, access, lighting, and landscape. A site plan review is required for all new development and modification to an established site that includes modification of access to the site or expansion of the building footprint by twenty-five percent (25%) or more. If a site plan review is required, no grading or building permit shall be released nor any building or other site improvement commence until the site plan has been approved.
- B. *Review Criteria.* In general, any site plan in compliance with all applicable standards of this Title shall be approved. In making a determination of compliance with the standards applied to particular site, or exercising any discretion under the standards, a site plan shall be reviewed according to the following criteria:
1. *Generally.*
 - a. The plan meets all applicable standards criteria of this Title and any applicable formally adopted standards, including but not limited to any applicable Landscape Standards in Chapter 8 of this Title and formally adopted City of Evans Engineering Standards and Specifications, as amended.
 - b. The plan does not present any other apparent risks to the public health, safety or welfare of the community.
 2. *Site Design and Engineering.*

- a. The plan provides safe access and internal circulation considering the site, the block and other surrounding connections, and appropriately balances vehicle, bicycle and pedestrian needs for the context.
- b. The plan provides or has existing capacity for utilities and other required improvements to serve the proposed development.
- c. The plan provides adequate management of storm water runoff.
- d. The plan provides proper grading considering prevailing grades and the relationship to adjacent sites.

3. *Landscape and Open Space Design.*

- a. The plan creates an attractive aesthetic environment and improves relationships to the streetscape or other nearby public, civic or common spaces.
- b. The plan enhances the environmental and ecological functions of un-built portions of the site, and makes effective use and conservation of water resources.
- c. The plan reduces the exposure and adverse impact of more intense activities or components of the site or building on the streetscape and on adjacent properties.
- d. Landscape standards are met in accordance with Chapter 18.08 of this Title.

4. *Building Design.*

- a. The location, orientation, scale and massing of the building creates appropriate relationships to the streetscape and to adjacent properties.
- b. The selection and application of materials will promote proper maintenance and quality appearances over time.
- c. The location, fixtures and types of building and site lighting promotes or creates aesthetic enhancements, promotes safety and security, and accounts for sensitive borders with the right-of-way or adjacent property.
- d. The building reinforces the character of the area and reflects a compatible architectural relationship to adjacent buildings. Specifically, if there is any consistency or commonality in the scale, proportion, forms and features, and materials of adjacent buildings, they inform choices on the proposed building.

C. *Review Procedure.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the following requirements are specific to site plan applications:

1. At the applicant's discretion, and as part of the pre-application steps, the applicant may present a preliminary or conceptual site plan. This may be used to confirm interpretations, test basic concepts and standards, or review options for a proposed project.
 2. Any requests for design review or variance from the standards are distinct applications, but may be coordinated with the site plan review as provided in Sections 18.03.110 and 18.03.140 of this Chapter.
 3. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director may make a final decision.
- D. *Site Improvements Agreement.* The applicant shall enter into an Improvements Agreement with the City for any required public and/or community improvements associated with a site plan.
1. The agreement shall specifically define the type, timing, and guarantees for completion of required improvements and be recorded in conjunction with the associated approved plan or plat.
 2. The applicant shall submit a financial guarantee for one hundred fifteen percent (115%) of the total cost of improvements based on approved design or construction plans.
 3. The Director may waive the need for an Improvements Agreement where there are no required public improvements or where improvements are minor in nature such that requirements in this Title are sufficient to address construction of improvements.
 4. Required onsite landscaping that is not anticipated to be installed by the time the certificate of occupancy is requested or by the commencement of operations shall also be included in an improvements agreement. Under no circumstances shall the installation of onsite landscaping be granted more than one (1) year beyond issuance of the certificate of occupancy or beyond the date operations commenced.
- E. *Effect of Decision.* Approval of a site plan shall authorize the applicant to apply for a building permit and other applicable development or construction permits.
1. A site plan may be revoked or suspended by the Director upon a finding that the conditions of approval have not been met, or that the use has otherwise violated the provisions of this Title.
 2. Minor changes to an approved site plan or a grandfathered site without a site plan may be approved by Director upon finding all of the following:

- a. The change modifies the building footprint of the original site by less than twenty-five percent (25%) and access to the site is unmodified.
 - b. The change complies with all other provisions of this Title, including the site plan criteria in Section 18.03.060 of this Chapter.
3. Any other changes to the site shall require an amendment to the site plan as a new application.

18.03.070. Reserved.

18.03.080. Special Use Permit.

- A. *Applicability.* A special use permit provides flexibility for different uses within a zoning district and allows the potential for additional uses subject to specific conditions and a case-specific review. These uses may require specific design, operational limitations, or additional mitigation to ensure the use is appropriate in a specific location. A special use permit must be initiated by the property owner.
 1. If conditions of a special use permit require site modifications, a site plan review may be required prior to commencement of the use.
- B. *Review Criteria.* A special use permit shall be reviewed according to the following criteria:
 1. The use is identified as requiring a special use permit in Table 18-2-1, Land Use Table in Section 18.02.030.
 2. The application is consistent with the Master Plan such that the long-range plans for the surrounding area are not negatively impacted by the proposed use.
 3. The application is compatible with the area in terms of operating characteristics such as hours of operation, visible and audible impacts, traffic patterns, intensity of use, and other potential impacts on adjacent property.
- C. *Review Procedure.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the following requirements are specific to special use permit applications:
 1. Applications shall be accompanied by a narrative and conceptual site plan to review any performance criteria for the particular uses when applied to the site or building.
- D. *Effect of Decision.* Approval of a special use permit shall authorize the applicant to apply for a building permit and other applicable development or construction permits.
 1. A special use permit may be revoked or suspended by the City Council at a public hearing upon a finding of one of the following:

- a. Failure to obtain permits, or otherwise achieve substantial completion of improvements, or commence use within three years of approval or a different amount of time specified in the approval resolution.
 - b. The conditions of approval have not been met, the site is out of compliance with the site plan, or that the use has otherwise violated the provisions of this Code.
 - c. Ceasing the use for a period of more than three (3) consecutive years.
2. Minor changes to an approved special use permit may be approved by the Director upon finding all of the following:
- a. There is not a significant increase in the intensity of the use that could adversely impact adjacent property;
 - b. The change does not exceed the limits or violate any specific conditions of the original approval; and
 - c. The change complies with all other provisions of this Code, including the Site Plan criteria in Section 18.03.060.
3. Any other changes to the use shall require an amendment to the special use permit as a new application.

18.03.090. Dedication and vacation of easements.

- A. *Applicability.* Dedication and vacation of easements is used to officially record or eliminate easements granting specific access and property interests stated in the recorded document. Easements may be dedicated or vacated in association with a minor or major subdivision, or by this section. Eligible applicants for dedication of easements include anyone with a property interest in the abutting and underlying land, and eligible applicants for vacations are only the easement holder.
- B. *Review Criteria.* The following criteria apply to dedication and vacation of easements:
- 1. All legal pre-requisites for recording or eliminating the property interest have been established, and all forms and fees required by the City have been submitted.
 - 2. The applicant has established written evidence of ownership, and provided notice to all other ownership interests in the easement or affected property.
 - 3. The application will not be detrimental to any adjacent property owner, and no owner or entity with a property interest in the easement or the underlying property has objected.
 - 4. All parties in interest or potentially impacted by the application, and any agencies or city departments with an interest, have received notice and have had time to comment.

5. For a vacation, there is no existing or reasonably foreseeable public use or purpose for the easement, considering the Master Plan, any specific transportation, open space or other public facilities plans, or other plans or policies under those plans.
 6. The application meets all other procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the Municipal Code.
- C. *Review Procedures.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the following requirements are specific to dedicating or vacating easements:
1. The applicant shall submit a plat or other legal document showing the specific property rights to be vacated or dedicated, and the effect to adjacent or abutting property.
- D. *Effect of Decision.* After approval of an easement dedication or vacation, the City Clerk shall record the plat or other legal document with the Weld County Clerk and Recorder. The Director's decision regarding a vacation or dedication application may be appealed to the City Council.

18.03.100. Dedication and vacation of rights-of-way.

- A. *Applicability.* Dedication and vacation of rights-of-way is used to officially record or eliminate rights granting specific access and property interests stated in the recorded document, which are not associated with a major subdivision process. Eligible applicants include the City or an abutting and underlying property owner. For any right-of-way abutting multiple property owners, the City may require that all owners join in the application.
- B. *Review Criteria.* The following criteria apply to dedication and vacation of rights-of-way:
1. All legal pre-requisites for recording or eliminating the property interest have been established, and all forms and fees required by the City have been submitted.
 2. The applicant has established written evidence of ownership of property abutting or underlying the right-of-way. Where multiple properties are involved, each owner shall be joined in the application.
 3. The application will not be detrimental to any adjacent property owner, and no owner or entity with a property interest in an affected easement or in the underlying property has objected.
 4. All parties in interest or potentially impacted by the application, and any agencies or city departments with an interest, have received notice and have had time to comment.
 5. For a vacation, there is no public purpose for the right-of-way, considering the Master Plan, any specific transportation, open space or other public facilities plans,

or other plans or policies under those plans. The vacation shall not leave any parcel without direct access to public right-of-way.

6. For a dedication, the right-of-way will serve a public purpose and the dedication is sufficient to meet the design standards and specifications of Chapter 18.04 of this Title for streets, trails or other rights-of-way.
 7. The application meets all other procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the Municipal Code.
- C. *Review Procedures.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the following requirements are specific to vacating rights-of-way:
1. The applicant shall submit a plat or other legal document showing the specific property rights to be vacated or dedicated, and the effect to adjacent or abutting property.
- D. *Effect of Decision.* After approval of a right-of-way dedication or vacation, the City Clerk shall record the Ordinance that includes a copy of the scale drawing or illustration and legal description with the Weld County Clerk and Recorder.

18.03.110. Variance.

- A. *Applicability.* A variance is a process to provide relief from a strict interpretation of the zoning and development standards of this Code, which when applied to a particular property and in a specific context would create practical difficulties or unnecessary hardship on all reasonable use of the property. Variances may be initiated by the property owner. Applications for variances shall be limited to the following dimensional requirements of this Code:
1. Minimum area of lot;
 2. Minimum width of lot;
 3. Maximum height of structures and fences;
 4. Minimum front yard setback;
 5. Minimum side yard setback;
 6. Minimum rear yard setback;
 7. Minimum off-street parking requirements;
 8. Sign setbacks, height or placement on a lot or building.
- B. *Review Criteria.* A variance shall be reviewed and approved only on the finding by the Zoning Board of Appeals that all of the following conditions are met:

1. Granting the variance will not adversely affect public health, safety, or general welfare.
2. The requested variance is the minimum necessary to relieve the difficulty or hardship and permit reasonable use of the property.
3. The strict application of this Code would result in practical difficulties or unnecessary hardships that limit the reasonable use of the property without granting the variance.
4. The difficulty or hardship is caused by conditions on the property that are unusual or atypical, are not the result of general conditions in the area, and were not created by the applicant.
5. Granting the variance will not adversely affect the rights of adjacent property owners or residents.
6. Granting the variance is consistent with the Master Plan and area or neighborhood plans, or may achieve greater consistency with these plans than if the codes were strictly applied.

C. *Minor Variance Procedures.* The Director may approve minor variances subject to the following:

1. Minor variances shall be limited to the following circumstances:
 - a. Variance to a setback, building location, or building height requirement by up to ten percent (10%) of the requirement. Where this would be less than one (1) foot, the Director may approve a variance up to one (1) foot.
 - b. Variance to a lot dimension requirement of up to five percent (5%) of the requirement.
 - c. Variance to a building coverage requirement by up to ten percent (10%) of the requirement.
2. Applications for minor variances may be submitted independently in advance of a site plan, provided there is sufficient information to evaluate the application according to the criteria. Alternatively, an application for a minor variance may be submitted with a site plan, provided the need for the variance is clearly called out as a separate issue and decision in the application materials.
3. Mailed notice shall be provided to all abutting property owners, allowing up to fourteen (14) days for the owners to object. Any objections shall require the variance to be processed with the Zoning Board of Appeals according to the rest of this section.

4. The Director's decision shall be based on the criteria in section 18.03.090.B. Denial of a minor variance by the Director may be appealed to the Zoning Board of Appeals.
- D. *Review Procedures.* In addition to the general requirements in Table 18-3-1 and Section 18.03.010, the following requirements are specific to variance applications not eligible for minor variances:
1. Applications may require an improvement location survey or other survey where it is necessary to review conformance with standards of this Code and the variance criteria.
- E. *Effect of Decision.* Upon approval of a variance, a Certificate of Variance Approval shall be recorded for the subject property by the City Clerk with the Weld County Clerk and Recorder. Upon filing, the applicant may proceed with any necessary approvals or permits authorized in the variance. Denial of a variance by the Zoning Board of Appeals may be appealed to the City Council.

18.03.120. Appeal of administrative decision.

- A. *Applicability.* The appeal of administrative decisions is a process to determine if there was an error in any final decision in the interpretation, administration or enforcement of this Code by an administrative official of the City. Except for where this Chapter and Table 18-3-1 establish a different appeal process for specific applications, appeals of administrative decisions may be filed with the Zoning Board of Appeals. Appeals may be filed by any person aggrieved and materially affected by a final decision of an administrative official, or by any officer, department, board, or official public body of the City. Appeals of administrative decisions shall be filed in writing with the Community Development Department within ten (10) days of the date of the decision being applied.
- B. *Effect of Filing.* An appeal halts all proceedings in furtherance of the decision appealed from unless the official making the decision certifies to the Board that it could cause imminent peril to life or property. In such case, the Board may elect to allow the official to continue proceedings in furtherance of the decision while the appeal is pending a final decision of the Board.
- C. *Notice.* Notice of the appeal shall be served upon the person whose decision is being appealed by providing a copy of the appeal. The administrative official whose decision is being appealed shall transmit to the Zoning Board of Appeals all plans, applications and other files directly impacting the decision and constituting the official record upon which the action appealed is taken within ten days of receipt of such filing of the appeal. If the appeal is based on an application that required any other notice under this Code, notice of the appeal shall also occur as required by the original application.
- D. *Action and Review Criteria.* The Zoning Board of Appeals shall grant the administrative official's decision a presumption of correctness, placing the burden of persuasion of error

on the appellant. A majority vote of the Board present shall be necessary to sustain an appeal. An appeal shall be sustained only upon written findings that the official was in error. In exercising the appeal power, the Board shall have all the powers of the official from whom the appeal is taken, and the Board may reverse or affirm wholly or partly or may modify the decision being appealed.

- E. *Effect of Decision.* The decision by the Zoning Board of Appeals shall have the same effect as a decision made by the administrative official but shall be limited to the facts and circumstances of that particular case. Any person aggrieved by a final decision of the Zoning Board of Appeals may appeal City Council according to Table 18-3-1 and Section 18.03.010.I.

18.03.130. Annexation.

A. *Applicability.* The annexation process is to add unincorporated lands to the municipal boundaries, and consider well-ordered development of the City, and the extension of municipal services and facilities in an efficient, and effective manner. Any annexation shall comply with Article 12, Municipal Annexation Act of 1965, Colorado Revised Statutes, as amended.

1. Annexations of enclaves may be initiated by the City Council when such enclaves have been completely surrounded by property within the municipal limits for a period of at least three (3) years.
2. The responsibility to apply for exclusion from any applicable special districts shall be upon the applicant of the annexation.

B. *Review Criteria.*

1. *General Eligibility.* The City Council may consider an annexation petition for land that satisfies the following eligibility requirements:
 - a. The proposed annexation meets the eligibility requirements of 31-12-104, C.R.S., summarized as follows:
 - b. The area proposed for annexation has not less than one-sixth (1/6) of its perimeter contiguous with the municipal boundaries; and
 - c. A community of interest exists between the area proposed for annexation and the City;
 - d. The area is urban or will be urbanized in the near future; and the area is integrated with or is capable of being integrated with the annexing municipality.
 - e. The full width of all adjacent public rights-of-way is to be included in the annexation.

2. *Specific Criteria.* City Council shall evaluate annexations according to the following criteria:
 - a. The proposed annexation complies with Article 12, Municipal Annexation Act of 1965, Colorado Revised Statutes;
 - b. The proposed annexation is in conformance with the Master Plan;
 - c. Adequate services are or will be available to support development expected to result from the proposed annexation; and
 - d. The proposed annexation provides for a continual and rational boundary.

- C. *Review Procedures.* In addition to any specific procedure required by the laws of the state at the time of annexation, and in accordance with the general procedures applicable by Table 18-2-1 and Section 18.03.010, the following specific procedures apply to annexations:
 1. *Request for Zoning.* The applicant shall submit a request for initial zoning in accordance with this section and Section 18.03.040, Rezoning or Section 18.03.050, Planned Unit Development. The Planner shall conduct an analysis of existing land uses on the subject property to ascertain zoning and lawfully established nonconforming uses. Nonconforming uses shall be permitted to continue, as provided in Section 18.01.110, Nonconformities.
 2. *Staff and Agency Review.* The Planner shall coordinate review of an application with all necessary reviewing agencies, and allow them two (2) weeks from the date of distribution of the annexation petition and supporting documents to make any objections or comments to the Planner.
 3. *Resolution to Consider Annexation.* The City Council shall determine whether to proceed with annexation of property by resolution which shall include the public hearing date and, at the same time, shall determine if an annexation agreement will be required.
 4. *Annexation Impact Report.* For annexations of areas larger than ten (10) acres, the City shall prepare an impact report concerning the proposed annexation. The report shall be prepared at least twenty-five (25) days prior to the date of the City Council hearing on the proposed annexation. A copy of the report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five days after preparation of the report. The annexation impact report shall comply with C.R.S. 31-12-108.5.
 5. *City Council Hearing.* The City Council shall hold a public hearing on the annexation. In taking action on an annexation, the City Council shall consider

the review criteria in this section, any comments received from agencies or offices receiving copies of the annexation plat, the staff and any comments received from citizens.

- a. Upon the completion of the hearing, the City Council, by resolution, shall set forth its findings of fact and its conclusion based thereon with reference to the following matters:
 - 1) Whether or not the requirements of the applicable provisions of Section 30 of Article II of the state constitution and C.R.S. Sections 31-12-104 and 31-12-105 have been met;
 - 2) Whether or not an election is required under Section 30 (1)(a) of Article II of the state constitution and C.R.S. 31-12-107 (2).
- b. The City Council shall also determine whether or not additional terms and conditions are to be imposed.
- c. A finding that the area proposed for annexation does not comply with the applicable provisions of Section 30 of Article II of the state constitution or C.R.S. Sections 31-12-104 and 31-12-105 shall terminate the annexation proceedings.
- d. *Effect of Decision.* If the annexation is approved, the City Clerk shall record the signed annexation plat with the Weld County Clerk and Recorder and a copy sent to the Department of Local Affairs. Annexed areas shall be included in the City's zoning ordinance and map within ninety (90) days after the effective date of the annexation ordinance, except that the proposed zoning ordinance shall not be passed on final reading prior to the adoption of the annexation ordinance. The City shall consider zoning such newly annexed areas under the appropriate zoning category as follows:
 - D. If land use approval or development of areas being considered for annexation is not pending upon completion of annexation, if the subject property is in a transitional state regarding development or if it is in the best interest of the City, the City Council shall place the newly annexed property into the AG - Agricultural Zoning District.
 - E. Requests for zone districts other than the AG - Agricultural District may be considered by the City Council in conjunction with the submittal of all applicable requirements for a rezoning application. The City Council shall place the newly annexed property into the zone district most appropriate, considering the goals and objectives of the City's Master Plan and the applicant's future development plans.

- F. During the time in which zoning of newly annexed areas takes place, the City may refuse to issue any building or occupancy permit for any portion or all of the newly annexed area.

18.03.140. Design Review

- A. *Applicability.* Design Review is the process by which applicants may request staff review of pre-identified development components as listed below, when the applicant wishes to deviate from the effective code requirements for such select components. Chapters 18.04 and 18.06 identify standards for which a Design Review is required as part of an application for development.
- B. *Review Criteria.*
 - 1. Review criteria for alternative design of new subdivision streets are located in Section 18.04.010.B.6 of this Title.
 - 2. Review criteria for alternative nonresidential design are located in Section 18.06.040.E of this Title.
 - 3. Review criteria for alternative access and parking design are located in Section 18.07.050.F of this Title.
 - 4. Review criteria for alternative landscape design are located in Section 18.08.030.F of this Title.
 - 5. Review criteria for alternative plant selections are located in Section 18.08.040.I of this Title.
 - 6. Review criteria for alternative fence or wall design are located in Section 18.08.050.C of this Title.
 - 7. Review criteria for alternative lighting are located in Section 18.08.060.C of this Title.
- C. *Review Procedure.* A review committee comprised of City staff may review and approve eligible requests for design review subject to the following:
 - 1. The request for alternative design shall be submitted prior to or included with the initial submittal of the application for development. The request shall include:
 - a. The effective design standard and code citation.
 - b. The proposed alternative design standard.
 - c. A narrative addressing all applicable review criteria.
 - d. Visual exhibits of the proposed alternative design.
 - e. Any other supporting documentation or studies which may assist the review.

2. The review committee shall review the proposed alternative design as part of the initial referral review period described in Section 18.030.010.F.2 of this Title and approve or approve with modifications an eligible request based on the applicable review criteria.
3. The review committee findings shall be included in the written comments provided to the applicant as part of the staff review of a development application described in Section 18.030.010.F.3.a.

[Repeal and replace Chapter 18.04]

CHAPTER 18.04 SUBDIVISION DESIGN

18.04.010 Intent and applicability.

- A. Emphasize open space design as a key determinant of Evan’s community image
- B. Coordinate open and civic spaces with street networks to maximize the civic design effects and establish valuable development patterns.
- C. Value the design, function, and appropriate location of different types of open space, rather than solely the quantity of space.
- D. Consider the context and multiple functions that open spaces can serve to support development including ecological, recreation, aesthetic, and urban design functions.
- E. Create focal points for the community and development projects.
- F. Integrate natural systems into the design of common or public open spaces to improve stormwater management, protect water resources, preserve ecosystems, and improve sustainability efforts.
- G. Implement Evan’s parks, recreation, trails, and open space plans and coordinate the design and location of other open and civic spaces with these plans.

18.04.020 Blocks.

- A. *Blocks and Connectivity.* Streets shall be laid out to provide a network of streets and blocks based on the planning context and development pattern as identified in Table 18-4-1, Block Sizes and Connectivity.

Table 18-4-1, Block Sizes.

| Zone district | Block length | Block area | Cul-de-sac Limits |
|---------------------|-------------------|---------------------|--|
| R-3, R-C, C-1, C-2 | 200 to 500 feet | 5 acres maximum | Prohibited |
| C-3, C-4, R-1, R-2, | 250 to 800 feet | 8 acres maximum | By exception only, 500 feet maximum |
| AG, R-1E | 250 to 1,250 feet | 40 acres maximum | 500 feet maximum |

- B. *Exceptions to block size.* Blocks may only exceed the acre or block length maximums in Table 18-4-1 based on the following exceptions:
 - 1. *Natural Features, Open Spaces, or other Civic Spaces.* Blocks or parcels abutting or containing important natural features, topographical constraints, or open spaces may be modified provided the proposed street layout preserves these features and integrates them into the open space system for the area. Alternative trail, path, or other connections through these areas may be required.

2. *Regional Transportation Routes.* Blocks or parcels abutting significant regional transportation routes that impede local network connectivity, such as highways or rail rights-of-way, may be modified provided the street layouts and development patterns achieve local connectivity in all other ways practical.
3. *Rural Parcels.* Tracts divided into lots of at least five acres for rural, agriculture, or very low-intensity development may exceed the block limits, provided the development is planned to allow future streets in compliance with these regulations and permit a logical pattern of re-subdivision with minimal disruption of existing or planned buildings, utilities, and other structures.
4. *Oversized Parcels.* Where oversized parcels are platted for special land uses or development patterns that accommodate large-scale projects or buildings, such as campuses, employment centers, or regional commercial areas, platted blocks may be larger provided private streetscapes organize the site into patterns that match Table 18-4-1. Private streetscapes shall reflect the streetscape and design amenity of this Chapter and create logical extensions and connections to the public street network beyond the project.
5. *Closed-end Streets.* In any case where streets are not required to connect by these standards or are justified by these exceptions, alternative designs such as loops or courtyard layouts are preferred over dead ends and cul-de-sacs. In all cases closed-end streets shall be no more than five hundred (500) and have no more than thirty (30) dwelling units per access point.

18.04.030 Connectivity.

- A. *Streets.* Streets, sidewalks, bikeways, and trails shall be laid out according to the City's most recently adopted plan for the area and comply with engineering specifications, intersection design, horizontal and vertical alignment, design details, and technical or construction specifications for constructing streets, utilities, stormwater, and other public improvements covered by the Engineering Standards and Specifications.
 1. *Paved connectivity.* All streets, alleys, and sidewalks associated created or modified by a final plat shall be paved. Trails may be paved or otherwise acceptably improved.
 2. *Crossings.* Pedestrian crossings shall be protected with crosswalks and other traffic calming measures in accordance with Engineering Standards and Specifications.
 3. *External street connections.* Streets shall be planned to provide continuation to adjacent areas at intervals where all resulting blocks meet the standards in Section 18.04.020, Blocks.
 - i. The City Engineer may require dedication of right-of-way and construction of streets extended to the boundary line of the property to be subdivided or may approve alternative arrangements for location and timing of

construction to coordinate with anticipated future development of adjacent areas.

4. *Pedestrian and multi-modal connections.* In any case where exceptions for larger blocks apply, or any other area where pedestrian and bicycle connections are important, such as adjacent to schools, parks, trail systems, or community centers, the city may require pedestrian walkways or bicycle routes through blocks or at the end of any closed-end street. Connections shall meet the open space design standards in Section 18.04.060.
- B. *Conceptual street network plan.* Subdivisions may require a conceptual street network plan associated with the preliminary plan. The conceptual street network plan shall show streets for the adjacent areas roughly aligning with plans or continuation of all major and secondary streets and show a conceptual layout of all streets to demonstrate compliance with this Section for the proposed subdivision and the adjacent area.
- C. *Design Review.* Alternatives to the street network standards established in the Engineering Standards and Specifications and, in this Section, may be authorized according to the Design Review process in Section 18.03.140, and based on a street network plan that meets the following applicable criteria. The alternative street network shall:
1. Coordinate streets and trail connections with adjacent development, and particularly considering a greater frequency of bicycle and pedestrian connections.
 2. Implement any officially approved transportation plan for a specific area.
 3. Emphasize unique natural features or better correspond to topography.
 4. Implement traffic calming measures in a manner that improves pedestrian and bicycle connections and safety.
 5. Create gateways and focal points within the street network by unique arrangements of streets and blocks.
 6. Average block sizes for the entire project implement a comparable or greater degree of connectivity, particularly considering the frequency of collector and neighborhood connector streets that can extend beyond the project.

18.04.040 Lots.

A. *Lot Arrangement.*

1. *General Layout.* All blocks shall be laid out to have two tiers of lots fronting streets on opposite sides, unless dictated by existing development patterns outside of the control of the project or by access management on regional transportation routes. In these cases, streetscape standards and open or civic spaces should be used to create buffers and transitions at the rear of lots.
2. *Hazards and Unbuildable Areas.* Blocks and lots shall be arranged to avoid hazards and unbuildable areas including steep grades, unstable or expansive soils, lands

with inadequate drainage or subject to flooding, and natural drainage areas. These areas shall be incorporated into open and civic space systems, restricted tracts or out lots, or otherwise mitigated to eliminate hazards.

B. *Lot Patterns.*

1. Lot size, width, depth, and shape shall meet the applicable zoning district standards and accommodate appropriate building location, orientation, and site design. Corner lots or irregular shaped lots may need additional space.
2. All lots shall front on a public street, or on an alternative access or common open space where specifically allowed by these regulations.
3. All side lot lines shall be as close as practical to perpendicular to front lot lines, or radial to any curves along the front lot lines. Other irregular lot patterns shall only be permitted where they are used to integrate patterns of buildable lots into the overall block structure and to provide consistent relationships of lots and buildings to the streetscape.
4. Lots shall be designed to ensure the buildable area of any lot shall not be encumbered by the required setbacks for oil and gas wells and facilities.

C. *Easements.* All blocks shall include easements for all utilities, required improvements, access, drainage, and open spaces necessary to serve each lot.

1. Easements shall be granted by the owner to the appropriate entity.
2. Easements shall be determined based on the specific needs of a development through the development review and granted prior to construction.
3. Unless otherwise specified through the development review process, utility easements shall be as follows:
 - a. Rear easements: twenty (20) feet; split ten (10) feet on each side if shared with another lot.
 - b. Rear easements along an alley: If the alley is at least twenty (20) feet wide and can accept utilities, no further easement is required.
 - c. Front easements, only if necessary due to right-of-way constraints: ten (10) feet.
 - d. Side easements, only if necessary: five (5) feet.

D. *Drainage.* Where a subdivision is traversed by a natural watercourse, drainageway or stream, blocks shall be laid out in coordination with these features, and they shall be integrated into the open and civic space systems.

1. Drainage areas shall be left in a natural state, and no encroachments shall be made on a significant natural drainage channel that impair the stormwater and ecological function wherever practical.

2. A pedestrian or bikeway easement shall be required where the block structure exceeds the standards in Section 18.04.020.
3. All necessary rights-of-way and easements shall be dedicated to the City or appropriate public entity to preserve the hydrologic, environmental, or stormwater function of the watercourse, drainageway or stream.

18.04.050 Subdivision open and civic space

Subdivision applications shall provide public or common open space as provided in this Section.

- A. *Required Open Space Dedication.* All new subdivisions shall provide open space according to Table 18-4-2, Required Open Space and in accordance with Chapter 16.42, Regulations for Dedication of Land and/or Payment of Fees for Public Park Land in Subdivisions.
1. The estimated number of people shall be based on three (3.0) people per single-family unit, duplex, and any multi-family dwelling unit with three (3) or more bedrooms; and one point six (1.6) people per multi-family unit with two (2) or fewer bedrooms.
 2. Open space for residential subdivisions shall provide amenities in accordance with Section 18.04.060, Neighborhood design.
 3. The city reserves the right to adjust the requirement between neighborhood and community open space categories based on the specific context of a project and surrounding spaces.

Table 18-4-2, Required Open Space.

| Context | Public Open Space | Common Open Space |
|--|--|--|
| A, R-1E, R-1, R-2, R-3, RMH or subdivisions with residential uses in R-C or nonresidential zones | Neighborhood: 3.25 acres / 1,000 people Community: 2.5 acres / 1,000 people | 4 acres / 1,000 people (for all projects over 5 acres or 20 units) |
| C-1, C-2, C-3, C-4, or only commercial uses in R-C | n/a | Less than 5 acres: 5% 5 to 20 acres: 8% 20+ acres: 12% |
| I-1, I-2, I-3 | n/a | n/a |

- B. *Fee in-lieu of dedication.* When a proposed subdivision is not within the vicinity of a planned park or common open space, or otherwise cannot dedicate land acceptable to meet the public open space requirement, the applicant may pay a fee in-lieu of dedication. This option shall be at the sole discretion of the City.
1. The fee shall equal the fair market value of the land area required to be dedicated.

2. The fair market value shall be established by an appraisal commissioned by the City at the applicant's expense, and be based on the value after completion of proposed platting and construction of public improvements.
 3. The fee shall be due prior to acceptance of the final plat as provided in 18.03.030.
 4. All fees shall be placed into a park development fund to be utilized for the acquisition of land for park, trails and open space purposes of the City.
- C. *Ownership and Management.* Open and civic space platted as part of a development shall require specific designation on the final plat as a separate outlot. Options for ownership and management of open and civic space include:
1. Land proposed for park dedication shall be clearly identified on any submitted plat including the number of acres for each site and the total acreage proposed for City park dedication within the project.
 2. The conveyance of dedicated park land to the City shall be by general warranty deed and title commitment and the title shall be free and clear of all liens and encumbrances, including real property taxes completed at the time of conveyance. Dedicated park land shall include the necessary water rights or other available water service to provide irrigation and drinking water. Community and neighborhood park land shall be conveyed at the time of recordation of the final plat for the area served by the community and neighborhood parks as defined in the City of Evans Parks, Trails and Recreation Master Plan.
 3. The City shall assume all responsibility for development of all land dedicated to parks and trails, unless otherwise determined by the City and the developer. If the developer elects to develop the park, a park site master plan, as designed by a professional landscape architect, shall be submitted to the City for approval prior to the time of final plat submittal and will be identified in a developer's agreement. Upon approval of the park plan by the City, cost estimates and construction documents shall be submitted along with all other necessary information for construction.
 - a. Common and public area landscape for each filing of a subdivision shall be installed by the developer within two (2) years of the first certificate of occupancy issued in the filing, or prior to the last certificate of occupancy, whichever is sooner, unless otherwise specified in an approved improvements agreement between the developer and the City.
 4. If not dedicated to the public, all open and civic space shall require documentation recorded with the final plat that outlines the ongoing maintenance plans, as well as administrative and financial management of the space according to these standards.

18.04.060 Open space system design.

Open spaces shall be laid out according to the policies of the Master Plan and other plans for parks, trails, and open spaces. The proper arrangement of these spaces shall coordinate with street networks, block and lot layouts, and the landscape and site amenities of individual lots.

A. *Types of open space.* Table 18-4-3 specifies the type, size and service areas of different open spaces that may meet the open space requirement.

Table 18-4-3, Open Space Types

| Type | Size | Service Area |
|---------------------------------|--|------------------------------------|
| Natural Open Space | At least 5 acres; 40+ acres optimal | n/a |
| Park - Community | At least 10 acres | within 1 mile |
| Park - Neighborhood | 2 – 10 acres | 0.5 mile |
| Park – Mini | 0.5 – 2 acres | 0.25 mile |
| Trail | At least 20 feet wide | 1,000 feet |
| Civic Space - Square | 5K SF – 1 acre | 1,000 feet |
| Civic Space – Plaza / Courtyard | 1K – 5K SF | abutting lots or on the same block |
| Enhanced Streetscape | See Section 18.04.060.E. | abutting lots on the same block |

B. *Location Criteria.* Subdivision design shall consider the following location criteria for open spaces to best meet the intent of this Section:

1. Distribute spaces so that all development has similar proximity to open and civic spaces appropriate to its context. All residential lots should be within the service area of two (2) different types of open spaces, and nonresidential lots should be within the service area of a trail or civic space.
2. Connect and integrate open spaces with public streetscapes and other civic destinations, such as schools, to improve visibility and access.
3. Provide access for neighborhoods to recreation opportunities for active living.
4. Preserve and integrate natural features, particularly for natural open spaces, parks or trails, including protection of groves of trees, prairie, streams, unusual and attractive topography and other desirable natural landscape features and views.
5. Locate civic spaces, square, plaza, or courtyard, to serve as gathering places and be a focal point for compact, walkable places, and design them as an extension of the streetscapes at highly traveled and visible locations.
6. Use open space types and design spaces that reinforce character of the area or create gateways and transitions to distinct places.

C. *Open & Civic Space Design Guidelines.* Open spaces shall be designed according to the following guidelines for each specific type in addition to meeting the applicable standards in Chapter 18.08, Landscape Design.

1. Natural Open Space includes existing or restored open lands such as riparian corridors and wetlands, unique geological formations, important habitats, or substantial groupings of important plant and tree types.
 - a. Natural open spaces shall protect the edges and to maximize intact and undisturbed spaces that provide valuable ecosystem services for the community, support preservation goals, or enhance the aesthetics and amenities of the area.
 - b. Natural open spaces shall contain active recreation, such as trails and paths, provided they do not disrupt the natural, ecological functions of the open space.
 - c. Natural open space may include preservation of productive agricultural lands.
2. Parks. The following applies to all new parks, in addition to requirements set forth in adopted parks plans.
 - a. Parks shall have a width, measured in all directions, of at least:
 - 1) Three hundred (300) feet wide for community parks.
 - 2) Two hundred (200) feet wide for neighborhood parks.
 - 3) One hundred (100) feet wide for mini parks.
 - b. Parks shall front onto one (1) or more public streets or public trail for at least:
 - 1) Six hundred (600) feet for a community park.
 - 2) Four hundred (400) feet for a neighborhood park.
 - 3) One hundred (100) feet for a mini park.
 - c. Between fifteen (15) percent and fifty (50) percent of the park area shall be designed for active, programmed or structured recreation such as ball fields, playgrounds or sport courts. The remainder of the park area shall be allocated to ground cover, tree areas, gardens, or other natural or formal landscape for passive recreation.
 - d. Parks shall include ornamental plantings, concentrations of trees, or other enhanced landscape at gateways, entrances, and prominent corners.

D. Trails.

1. Trails corridors shall include a paved or otherwise dust-free stabilized surface meeting the Engineering Standards and Specifications.

2. The landscaped area on each side of the trail shall be at least six (6) feet wide, and wider in places that incorporate natural features or significant vegetation.
3. One shade tree for every forty (40) feet of trail length; and one ornamental tree or small evergreen tree for every twenty-five (25) feet of trail length are required.
4. Trails corridors located along rights-of-way shall be integrated into the streetscape design to create the optimal multi-modal design for the street and trail, particularly along arterial streets.

E. Civic Spaces.

1. Civic space shall have frontage on a public street (or internal access street) with direct pedestrian access to the streetscape and sidewalk, subject to the following;
 - a. Square - along at least two (2) sides and sixty (60) percent of the perimeter.
 - b. Plaza - along at least one (1) side and at least thirty-five (35) percent of the perimeter.
 - c. Courtyard - along at least twenty (20) percent of the perimeter, or an entrance from a gateway along the street.
2. Buildings shall front on and frame the civic space, and be designed with frequent entrances, transparency, and outdoor seating areas to create activity in the space and make physical and visual connections between the buildings and the space.
3. Civic spaces shall have a balance of formal gathering places, such as hardscape, seating, public art; and landscape, such as gardens, lawns, planting beds within the following:
 - a. Square – formal space: fifty (50) to seventy-five (75) percent; landscape: twenty-five (25) to fifty (50) percent.
 - b. Plaza – formal space: seventy-five (75) to eighty-five (85) percent; landscape: fifteen (15) to twenty-five (25) percent.
 - c. Courtyard – formal space: twenty-five (25) to fifty (50) percent; landscape: fifty (50) to seventy-five (75) percent.
4. One shade tree for every twenty-five (25) feet of street frontage and one (1) ornamental or evergreen tree for every one thousand (1,000) square feet.

F. Enhanced Streetscapes.

1. Gateways shall concentrate landscape and ornamental structures at important intersections or at entrances to distinct neighborhoods or districts. Gateways

may be located more frequently throughout a neighborhood or district with smaller, subtle treatments at multiple intersections, creating a hierarchy of streetscape elements that define the character of the area.

2. Gateways landscape: one (1) shade tree per thirty-five (35) feet of street frontage; one (1) ornamental tree or evergreen tree per two hundred fifty (250) square feet; and three (3) shrubs per one hundred (100) square feet.
3. Pedestrian and landscape amenity areas at least fifty (50) percent greater than required for the streetscape or landscape median of at least twelve (12) feet on collector streets or fourteen (14) feet on arterial streets; may count to common open space
4. Pedestrian and landscape amenities shall include planting that is at least fifty (50) percent above the rate required for the street.
5. Streetscape enhancements shall generally be located in separate tracts designated on a plat or dedicated as additional right-of-way.

G. *Stormwater Facilities.* Stormwater facilities shall be designed and integrated into the street network or open and civic space system to avoid redundant and inefficient facilities on individual lots. Any landscaped area used for stormwater may be counted towards the open space requirement provided:

1. It is integrated into the design of the space in a manner that it is an aesthetic amenity and is consistent with the design character of the space.
2. The design does not impact the utility of the space for either purpose. For example, stormwater functions do not compromise the use and value of the space as intended open space, and landscape and open space designs do not compromise maintenance and management and performance for stormwater functions.
3. The maintenance and management of the portion of the facility serving stormwater functions is clearly identified on the approved site plan or plat, whether that is a public dedication or whether it is an obligation of the property owner or owners association.

18.04.070 Neighborhood design.

In addition to the subdivision design standards in Chapter 18.04 of this Title, these neighborhood design standards shall apply to all new residential subdivisions.

- A. *Buffered lots.* Lots intended for single-family or duplex dwellings shall not abut an arterial or major collector street. Such lots shall be separated at least twenty (20) feet buffer meeting the requirements for a transitional buffer in accordance with Section 18.08.020 and be surrounded by a six (6) foot tall fence.
- B. *Perimeter fence.* The residential subdivision shall be surrounded by a perimeter fence made of wood, vinyl, stone, masonry, or architectural block; no chain link; with columns at

least every sixty (60) feet with breaks for walkways. A perimeter fence shall not be required to surround a community park on the edge of a development.

- C. *Lighting*. Ornamental street lighting is required on internal streets in accordance with Section 18.08.070.
- D. *Noise*. Swimming pools, tennis courts, and other noise generators shall be located at least forty (40) feet from a residential unit, including an associated patio or balcony.
- E. *Neighborhood identity features*. On a neighborhood-wide scale, residents shall have access to at least one (1) central neighborhood identity feature or gathering place incorporated into the required open or common spaces within the subdivision.
 - 1. The number of required neighborhood identity features is as follows:
 - a. Twelve (12) to fifty (50) units: One (1) feature.
 - b. Fifty-one (51) to one hundred fifty (150): Two (2) features.
 - c. One hundred fifty-one (151) to three hundred (300): Three (3) features.
 - d. More than three hundred (300) units: Four (4) common areas.
 - 2. Neighborhood identity feature options
 - a. A system of trails, other than required public sidewalks, throughout the entire development shall count as one (1) identity feature. Trails should be designed to provide interesting and distinct areas for walking, bicycling and/or horseback riding in areas separate from and in addition to traditional sidewalks.
 - b. A system of pocket parks in which each park is at least ten thousand (10,000) square feet and is landscaped in accordance with Chapter 18.08. If the combined area of all pocket parks is between one-half ($\frac{1}{2}$) acre (twenty-one thousand seven hundred eighty (21,780) square feet) and one (1) acre, it shall count as one-half ($\frac{1}{2}$) an identity feature. If the area is greater than one (1) acre, it shall count as one (1) identity feature.
 - c. A water feature, fountain or piece of art such as a sculpture, shall each count as one-half ($\frac{1}{2}$) identity feature.
 - d. Playgrounds with commercial-grade equipment, picnic/barbeque areas with commercial-grade equipment, or court games (tennis, volleyball or basketball) at least one thousand (1,000) square feet in area shall each count as one (1) identity feature.
 - e. Plazas, courtyards or community gardens with irrigation systems and collars to define garden edges, which cover at least one thousand (1,000) square feet in area, shall each count as one (1) identity feature.
 - f. A community building at least two thousand (2,000) square feet in area shall count as two (2) identity features.
 - g. An in-the-ground swimming pool site or splash park site at least two thousand (2,000) square feet in area shall count as two (2) identity features.
 - h. Other features may be considered credit toward meeting the identity feature requirement, subject to approval by the City Council.

3. All neighborhood identity features not dedicated or not eligible for dedication to the City shall be considered common area and shall be maintained in perpetuity by the owners association, unless otherwise stated herein.

18.04.080 Required Improvements.

A. *Intent.* The intent of this section is to:

1. Ensure that all public or common improvements necessary to serve lots within a subdivision are constructed, inspected or otherwise assured of completion prior to the issuance of permits and final approvals.
2. Integrate the design and construction of public, common, and private improvements in the most effective and efficient manner.
3. Prevent the location or design of a subdivision from placing an undue burden on public utility systems and community facilities serving other areas.
4. Provide appropriate apportionment of costs, and offset higher net costs or premature costs to the public resulting from subdivisions.
5. Protect against subdivisions where soil, subsoil or flooding conditions would create potential dangers to public health or safety.
6. Coordinate subdivisions and construction of required improvements with other anticipated improvements or with future growth.

B. *Required Improvements.* The following improvements are required for all subdivisions at the expense of the developer. All improvements are subject to the city or other responsible entities' standards, plans, and specifications for improvements.

1. Survey monuments for each lot;
2. Sanitary sewer main lines and service lines to each lot;
3. Potable water main lines and service lines to each lot;
4. All non-potable mains and services to required lots, where available;
5. Fire hydrants;
6. Storm sewers, culverts, detention facilities, bridges and any other approved storm drainage components, or elements, as required.
7. Underground electric and communication utility lines and services.
8. Landscape for public and common areas.
9. Utilities (telephone, electrical service, gas lines and cable television). All utilities shall be installed underground and be in place prior to issuance of certificate of occupancy. Facilities necessarily appurtenant to underground facilities for the purpose of maintenance of the underground facilities may be above ground.

10. Streets, alleys and sidewalks. All streets shall be paved and all other improvements such as sidewalk, bike paths, curb and gutter shall be installed as required on the approved construction drawings. In cases where an existing street has not been brought up to City specifications the street shall be paved and all other improvements such as sidewalk, bike paths, curb and gutter shall be installed in order to meet City specifications. If any subdivision is located adjacent to any existing street right-of-way, the applicant shall improve at least the adjacent half of the street according to City specification.

- a. Any deferral of street construction shall require installation of an all-weather surface for interim access of construction and emergency vehicles in accordance with Engineering Standards and Specifications.

11. Street signs on residential projects only;

12. Streetlights; and

13. All other improvements required as a condition of approval of the plat or development agreement.

C. *Development agreement.* The City and the developer shall enter into a development agreement to be recorded in association with an approved final subdivision plat that specifically defines the type, timing, and guarantees for completion of required improvements.

D. *Performance guarantee.* The developer shall submit a financial guarantee for one hundred fifteen percent (115%) of the total cost of improvements based on approved design or construction plans.

1. The guarantee shall be a letter of credit, cash, or in another form acceptable to the City Attorney and for an amount acceptable to the City Engineer.
2. The City may approve clearly defined, logical phases of construction, and may accept apportioned guarantee prior to the beginning of each phase.
3. The performance guarantee amount shall be based on an estimate provided by the applicant and approved by the City Engineer, who may determine an alternate amount based on relevant similar projects and comparable improvements.
4. Upon initial acceptance of the constructed public improvements, including the required signed as-built drawings for the improvements, the City shall release the performance guarantee, but retain a fifteen percent (15%) warranty for two (2) years.
 - a. The use of the warranty shall be restricted for the repair, replacement, completion, and maintenance of all improvements subject to the approved construction drawings and the subdivision improvement agreement.

- b. The City may extend the warranty for all or a portion of the amount if major items have not been repaired or replaced to the satisfaction of the City Engineer.
 - c. After final inspection, final acceptance, and at the end of the two (2) year warranty period, the City shall release the warranty.
- E. *Procedures for improvements.* To ensure that all required improvements are built according to city specifications, the construction of improvements shall generally take the following steps:
 - 1. *Pre-construction.*
 - a. Recordation of development agreement and acceptance of performance guarantee.
 - b. Approval of construction drawings.
 - c. Release of grading and right-of-way permits.
 - 2. *Issuance of building permits.* The following improvements for the particular phase of the plat shall be installed in accordance with the approved construction drawings and approved by the City prior to issuance of a building permit for any part of the phase:
 - a. Sanitary sewer main lines and service lines.
 - b. Potable water main lines and service lines.
 - c. Fire hydrants.
 - d. Curb, gutter, sidewalk and paved roadways
 - 3. *Issuance of certificates of occupancy.* The following improvements for the particular phase of the plat shall be installed and approved by the City prior to issuance of a certificate of occupancy for any part of the phase.
 - a. Utilities.
 - 4. *Initial inspection.*
 - a. Developer notifies the City of completion of construction as permitted.
 - b. As-built drawings submitted by the developer, certified by the contractor, surveyor and project engineer. Any major changes to the as-built drawings shall be reflected and recertified prior to Final Acceptance.
 - c. City inspects and issues a punch list for any necessary deficiencies or maintenance.
 - d. If no punch list items, or after punch list completed, improvements are initially accepted by the City.

- e. City maintenance and the warranty period begin, but the developer remains financial responsibility for defects, maintenance and repairs.
5. *Intermediate inspection.* The City has the option to inspect improvements at any point at least one hundred twenty (120) days prior to the expiration of the warranty.
6. *Final inspection.*
- a. City inspects and issues a punch list for any necessary deficiencies or maintenance.
 - b. If no punch list items, or after punch list completed, improvements are finally accepted by the City and the warranty is released.

[Repeal and replace Chapter 18.05]

CHAPTER 18.05 RESIDENTIAL DEVELOPMENT

18.05.010 Intent and applicability.

Residential design standards include the design of frontages, the relation of buildings and sites to the streetscape; design of buildings, the relation of buildings to the lot and surrounding spaces and buildings; and open space, the design of other unbuilt portions of the lot.

- A. *Intent.* The Residential Development Standards have the following intent.
 1. Provide housing variety within neighborhoods and among different neighborhoods, and ensure compatible transitions between different residential building types.
 2. Improve the appearance and livability of neighborhoods with good civic design.
 3. Design and locate parks, trails and other open spaces as focal points that shape neighborhood character and provide access to amenities.
 4. Design neighborhoods with slow-speed streetscapes, well-connected sidewalks and trails, and shade and enclosure provided by street trees
 5. Reinforce the distinct character of different neighborhoods based on their context:
 - a. Prioritize diverse housing and walkable neighborhoods with convenient access to services and amenities near activity centers.
 - b. Promote lower-density housing with access to large, contiguous open spaces and natural areas in rural locations
 6. Orient all buildings and lots to the public street or to common open spaces, and locate active social spaces along the streetscape
 7. Design buildings with human-scale details such as entry features, windows and doors, massing elements, and ornamental features, particularly where these features create compatibility among a mix of building types.
 8. Promote lasting and sustained investment in neighborhoods with quality design.
- B. *Applicability.*
 1. The standards in this Chapter apply to all new or substantially-improved residential development, including sites or structures; except where stated that Sections only apply to specific districts or specific situations.
 2. Modification or additions to existing structures or sites to the extent of the modification or addition, except that the Director may waive any design standards applied to modifications or additions that:
 - a. Conflict with the consistent design of an existing building;
 - b. Conflict with a desired and prevailing character on the block or immediate vicinity of the project; or
 - c. To otherwise facilitate infill development or adaptive reuse of an existing building.

3. The standards shall not apply to ordinary maintenance of existing buildings or sites, except that maintenance shall not occur in a manner that brings the building or site to a greater degree of nonconformance with these standards.

18.05.020 Lot creation.

A. *Building types & lot standards.* The residential lot standards shall be based on the different building types permitted in each zone district, as specified in Table 18-5-1, Residential & Lot Standards. The design standards in other sections of this Chapter, or any other adopted design guidelines, may further affect the design and location of each building type in a specific application. For Table 18-5-1, the following applies:

1. A black square, “■,” means a permitted building type.
2. An “L” means limited to locations along Collector or Arterial streets.

Table 18-5-1, Residential Lot Standards

| Zone Districts | | | | | | Building / Lot Types | # of Units | Lot Standards | |
|----------------|-----|----|---------|----|-----|---------------------------|------------|-----------------------------|---|
| AG | R1E | R1 | R2 / RC | R3 | RMH | | | Minimum Size | Width |
| ■ | ■ | | | | | Detached House – Rural | 1 | 2.5 acres | Minimum 200 feet |
| | ■ | ■ | ■ | | | Detached House – Estate | 1 | 13,000 SF | Minimum 100 feet |
| | | ■ | ■ | ■ | | Detached House – Standard | 1 | 6,000 SF | 40 feet – 99 feet |
| | | | ■ | ■ | | Detached House – Small | 1 | 3,500 SF | 30 feet – 49 feet |
| | | | ■ | ■ | | Duplex / Multi-unit House | 2 to 4 | 6,000 SF, min 2,500 SF/unit | Minimum 50 feet |
| | | | ■ | ■ | | Row House | 3 to 8 | 1,200 SF/unit | 15 feet min/unit, 150 feet max/building |
| | | | L | ■ | | Apartment – Small | 5 to 12 | 6,000 SF | 50 feet – 99 feet |
| | | | | ■ | | Apartment – Medium | 13 to 24 | 14,000 SF | 100 feet – 300 feet |
| | | | | L | | Apartment – Large | 25 + | 30,000 SF | Minimum 200 feet |
| ■ | ■ | | | | | Accessory Dwelling Unit | 1 | n/a | n/a |
| | | | ■ | ■ | ■ | Courtyard Pattern | | See Section 18.05.060 | |
| ■ | ■ | | | | | Conservation Pattern | | See Section 18.05.070 | |
| | | | | | ■ | Small Format Housing | | See Section 18.05.080 | |

B. *Dimensional exceptions.* The following are exceptions to lot standards established in Table 18-5-1.

1. Row houses and side-by-side duplexes may have individual units platted on separate lots, provided the building meets the standards in Table 18-5-1, each unit meets any per-unit or proportional standards for each lot, and the dwelling meets any applicable fire code for a party wall.
2. Side lot easements between abutting lots may be granted in association with a plat to have the effect of “zero lot line” patterns. Easements for exclusive use of the side yard may be granted to the abutting owner to meet the lot open space requirements and design standards in Section 18.05.070. Easements shall be identified on a recorded plat or in recorded agreements, and account for all access and maintenance scenarios for the lots, open space, and buildings.
3. Lots may be configured in a courtyard pattern as provided in Section 18.05.080.
4. Lots may be configured in a conservation pattern as provided in Section 18.05.090.

18.05.030 Frontages

- A. *Frontages, generally.* The design of lot frontages establishes the relationship of buildings and lots to the streetscape. Frontage design includes building placement, lot access, garage extent and location, and entry features.
 1. Frontages shall be designed according to the standards in Table 18-5-4, Residential Frontage Types & Design Standards. Subsections following the table provide specific design strategies and techniques to be used to meet these standards.
 2. Where multiple frontage types are permitted, the applied frontages should be similar for all lots on the same block face or gradually transition to different building placement and frontage types on adjacent lots.
 3. The front building line of adjacent buildings shall not differ by more than five (5) feet.
- B. *Residential frontage types.* There are four distinct contexts for residential frontages:
 1. *Terrace frontage (T).* Urban-scale density with rear access.
 2. *Neighborhood frontage (N).* Urban-scale density with traditional setbacks.
 3. *Suburban frontage (S).* Less dense, lower-count family dwellings.
 4. *Buffer frontage (B).* Rural-scale estates or large apartments set farther from streets.
- C. *Frontage applicability.* Table 18-5-2 indicates preferred frontage types for each residential zone district. The frontage of first preference shall be applied unless site constraints, such as utility location or lot size, prevent application. In this case, the frontage of second preference shall be applied. New subdivisions shall be designed for preferred frontages unless a Design Review has approved a second or third preference frontage.

Table 18-5-2, Residential Frontage Preference for Application

| Residential Building in Zones | 1 st | 2 nd | 3 rd |
|---|-----------------|-----------------|-----------------|
| AG, R-1E, Large apartments in R-3 | Buffer | Suburban | |
| R-1 | Suburban | Neighborhood | |
| R-2 | Neighborhood | Terrace | Suburban |
| R-3 | Terrace | Neighborhood | |
| RMH, see Section 18.05.100 | | | |
| For nonresidential buildings, see Chapter 18.06 | | | |

D. Frontage design. Frontage design determines the relationship between private development and the streetscape and affects the character of different streets, blocks, and districts. Table 18-5-3 and the following subsections provide design strategies and techniques to meet the intent and standards for nonresidential lot development.

Table 18-5-3, Residential Frontage Design.

| | Terrace | Neighborhood | Suburban | Buffer |
|----------------------------------|---|---|---|---|
| Front building line (FBL) | 10 – 25 feet | 25 – 60 feet | At least 25 feet | At least 35 feet |
| Front entry feature | Required | Required | Optional | Optional |
| Driveway limits | 15% of lot width, 20 feet maximum | 20% of lot width, 20 feet maximum | 50% of lot width, up to 27 feet maximum | 25% of lot width, up to 36 feet maximum |
| Garage façade limitations | 20%, if flush or behind FBL | 35%, if flush or behind FBL | 45%, if up to 12 feet in front of FBL; or 60%, if flush or behind FBL | 45%, if up to 12 feet in front of FBL; or N/A, if set back beyond 60 feet |
| Front Yard Landscape | 60% minimum landscape; and 40% maximum hardscape. | 75% minimum landscape; and 25% maximum hardscape. | 50% minimum landscape; and 50% maximum hardscape | Type 1: 6 feet + buffer on constrained sites or minor streets. Type 2: 15 feet + buffer generally. Type 3: 30 feet + buffer on sites over 2 acres or major streets. |

1. *Front building line.* All buildings shall establish a front building line within the build to range specified in Table 18-5-3 based on the appropriate frontage type for the specific street and block. Building frontages are required to cover the minimum distance specified along the front building line parallel to the front lot line with either of the following:
 - a. Front building façade meeting the design requirements of this Section; or
 - b. Landscaped areas meeting the requirements of Section 18.05.050.
2. *Front entry features.* Front entry features create human-scale massing elements that relate buildings to the frontages and streetscape, and provide outdoor social spaces that activate the streetscape, meeting the intent of this Chapter. The following entry feature standards and design techniques shall be used where entry features are required by frontage types in Table 18-5-2, and are otherwise recommended to meet the standards of Table 18-5-3.
 - a. Porch.
 - 1) Eighty (80) square feet minimum.
 - 2) Decorative railing or wall two and one-half (2.5) feet to four (4) feet high along at least fifty percent (50%) of the perimeter.
 - 3) If not roofed, a canopy, pediment, transom windows, enlarged trim and molding or other similar accents accompany the front entrance.
 - b. Stoop.
 - 1) Fifty (50) square feet minimum.
 - 2) Decorative railing or walls along steps and side of stoop.
 - 3) Ornamental features accent the front entrance, such as a canopy, pediment, transom windows, enlarged trim and molding, or other similar accents that emphasize the door over other façade features.
 - c. Entry court.
 - 1) Twelve (12) feet minimum width, but less than fifty percent (50%) of the front elevation.
 - 2) Ten (10) feet minimum depth.
 - 3) Recessed entry within the building footprint.
 - 4) Decorative wall or railing, between two and one-half (2.5) feet and six (6) feet high along at least fifty percent (50%) of the opening, or comparable vertical landscape edge.
 - 5) Ornamental pillars, posts, or landscape accent the pedestrian entrance and create a gateway into the entry court.
 - d. General design.

- 1) Entry features shall have a sidewalk or path at least four (4) feet wide directly connecting the entry feature to the public sidewalk or street. For Suburban or Buffer Frontages this can connect via the driveway.
 - 2) Entry features shall be integrated into the overall building design including compatible materials, roof pitch and forms, and architectural style and details.
 - 3) Entry features shall be single-story, so that any roof structure and any ornamentation occur between eight (8) feet and fourteen (14) feet above the floor-level of the entry feature.
 - 4) Entry features meeting these standards may encroach up to ten (10) feet in front of the front building line, but not closer than five (5) feet to a public or common property line, provided they are unenclosed on all sides that project into the setback.
 - 5) Any building with more than one hundred fifty (150) feet of front façade, or any side greater than two hundred (200) feet and permitted within (20) feet of the street, shall have one (1) entry feature for each one hundred (100) linear feet of building frontage on the street.
3. *Front yard landscape.* All new or substantially improved residential front yard landscaping shall comply with the percentages in Table 18-5-3 and shall comply with Section 18.05.050, Lot open space.
 4. *Driveway limits.* Driveway limits maintain active spaces along the frontage, preserve areas of streetscape landscape, and reduce curb cut width protecting sidewalks and curbside parking, meeting the intent of this Chapter. The following driveway standards apply to the following driveway limits:
 - a. Front driveway access is prohibited for any lot served by an alley. The Director may waive this prohibition in cases where the alley does not provide adequate access.
 - b. Driveway width limits apply to the first thirty (30) feet of the lot depth, or up to the front building line, whichever is less.
 - c. Any garage meeting the location and design standards may have a driveway expanded to the width of the entry in front of the garage entry, but no closer than ten (10) feet to the front lot line.
 - d. In cases where standards prohibit front-loaded driveways and garages and on a particular lot, a range of options with different access patterns and garage locations may be used, including detached garages, single-line or shared drives, and internal common lanes or alleys.

- e. All parking shall be outside of the frontage area, except detached houses or multi-unit houses may have two required parking space per building in the driveway, provided it is at least seven (7) feet by eighteen (18) feet, entirely outside of the right of way, and does not interfere with any pedestrian area.
5. *Front-Loaded Garage Design.* The following limits are for front-loaded garages See Table 18-5-3, Residential Frontage Design.
- a. Garage limits shall be measured by the exterior walls of the floor plan or other clearly distinguished massing element on the front façade.
 - b. Any front-loaded garage permitted to project in front of the main mass of the house shall:
 - 1) Have a front entry feature associated with the non-garage mass of the building that projects in front of or is no more than four (4) feet behind the garage entry and is at least ten (10) feet wide; and
 - 2) Be limited to wall planes of no more than two hundred (200) square feet with garage entries, using off-sets and/or ornamental features such as canopies, eyebrows, or cantilevers to break up the wall plane.
- E. *Design Review.* Alternatives to the frontage design standards established in Section 18.05.030, Frontage Design, may be authorized according to the Design Review process in Section 18.03.140, and based on the following applicable criteria:
- 1. The context presents a clear pattern of existing buildings and lots on the same block and opposite block face with a different arrangement in terms of the front building line, driveway access patterns, and extent and placement of garages.
 - 2. An alternative design allows the building, garage, and access to be sited in a way that preserves topography or other natural features on the site.
 - 3. The specific standard is not practical due to the context and location of the lot or other similar physical conditions beyond the specific building and site not created by the landowner.
 - 4. The alternative preserves the streetscape landscape area and the curb areas available for on-street parking to the greatest extent practical.
 - 5. In all cases the deviation is the minimum necessary to address the circumstance, and there are no negative impacts to other design standards applicable to the building or site.
 - 6. The alternative equally or better meets the intent for the standards.

18.05.040 Building design.

Building design refines the scale and form of buildings. Table 18-5-6, Residential Building Design Standards provides standards for massing and façade design for residential buildings. Subsections following the table provide specific design strategies and techniques to be used to meet these standards and the design objectives.

Table 18-5-6, Residential Building Design Standards.

| Design Detail | Detached house, duplex, multi-unit house | Row house, apartment |
|-----------------------------|--|----------------------------|
| Wall Plane Limits. | 800 SF or 50 linear feet | 1,200 SF or 70 linear feet |
| Blank Wall Limits. | 500 SF or 30 linear feet | 800 SF or 45 linear feet |
| Roof Plane Limits. | 600 SF or 50 linear feet | 1,000 SF or 70 linear feet |
| Transparency, front | 20% | |
| Transparency, side | 8% | |
| Transparency, corner side | 10% | |
| Transparency, rear | 8% | |
| Primary material | 60% - 85% | |
| Secondary material | 10% - 30% | |
| Accent material | 5% - 15% | |
| Maximum number of materials | 4 | |

- A. *Wall & Roof Plane Limits.* Massing techniques change the building footprint, height, or use significant shifts in wall and roof planes to break down the volume of larger buildings. Wall planes that exceed the wall and roof plane limits in Table 18-5-6 shall have differentiated massing for at least twenty-five percent (25%) of the elevation using one (1) or more of the following techniques:
 1. Break the building into distinct masses (primary mass, secondary mass, and wings), where portions of the building are offset from the main mass by at least eight (8) feet or are otherwise noticeably smaller and subordinate to the main mass.
 2. Step back portions of the building footprint or upper stories by at least four (4) feet in association with meaningful outside space, such as a balcony, deck, patio, or entry court.
 3. Use cantilevers on upper stories that provide at least a two (2) feet overhang of other portions of the wall plane.
 4. Provide a single-story entry feature that project at least six (6) feet from the wall plane.

5. Articulate rooflines by stepping the roof, using gables and dormers, dropping eaves below interior story heights, and using prominent overhangs to create offsets and projections of at least two (2) feet.
 6. Where larger buildings are next to smaller buildings, or are along a block with smaller buildings, step the height of the building or offset secondary masses to create compatible massing nearest to adjacent structures.
- B. *Blank Wall Limits.* Modulation uses materials, ornamental details, and subtle variations in the wall plane to break up blank walls. Wall planes that exceed the blank wall limits in Table 18-5-6 shall be broken up so that at least twenty percent (20%) of the façade is distinguished by modulated elements using at least one (1) or more of the following techniques:
1. Create projections in the wall planes with bay windows, balconies, awnings, or canopies that project at least two (2) feet from the wall plane.
 2. Create voids in the wall plane with step-backs of upper stories or balconies that recess at least four (4) feet from the wall plane.
 3. Differentiate stories, roofs, or other masses with prominent trim materials and/or incorporate material changes on different modules of the building. Significant trim or ornamentation used to break up blank walls or wall planes shall project between two (2) inches and two (2) feet from the wall and be at least eight (8) inches wide.
 4. Use color changes and accent materials to emphasize distinct components of the façade. Material and color changes should wrap corners and occur at the inside corner of a massing element or occur in association with a significant trim or ornamentation to give a finished and unified appearance to the element.
 5. Break up remaining large expanses of blank walls with façade composition that considers the location and grouping of windows, doors, or architectural details.
- C. *Transparency.* Windows and doors provide transparency, detail, and visual rhythm on the façade; and they break up blank walls with the location, pattern, and proportions of these openings. One (1) or more of the following techniques shall be used to meet the transparency requirement of Table 18-5-6:
1. Create relationships to outdoor spaces near buildings with the location, pattern, and proportions of windows and doors
 2. Incorporate distinct and visually significant aspects of windows and doors, such as size, orientation, and ornamentation, to emphasize key locations on the façade or to relate to important social spaces.
 3. Locate windows and doors to create a coordinated façade composition considering the entire façade as a whole, and to break up large expanses into different components with the grouping of windows and doors.

4. Locate and design windows strategically in relation to privacy concerns in adjacent spaces and buildings but maintain consistent exterior patterns and façade composition. High-bank windows, transom windows, opaque windows, and window treatments that are adaptable and user-controlled are better may be used to deliver privacy as opposed to omitting windows.
 5. Use windows and doors with projecting trim and ornamentation to create depth, texture, and shadows on the façade; to emphasize openings; or to gang groups of openings. Openings that have projecting trim and casements that are at least one (1) inch off the façade and four (4) inches wide or openings that group windows with significant details count toward the transparency requirement.
 6. The side transparency requirement may be waived if the transparency would cause the building not to comply with applicable building code requirements.
- D. *Materials.* Building materials with texture and patterns create visual interest and signify quality construction and detailing. The following techniques shall be used to meet the materials requirement of Table 18-5-6:
1. Use natural materials such as painted or natural finish wood siding (horizontal lap, tongue-and-groove, board and batten, or vertical), brick, stone, stucco, ceramic, or terra cotta tile. Synthetic alternatives to these natural materials may be used if manufacturer specifications and/or precedents for application demonstrate that it will perform equally or better than the principal materials in terms of maintenance, design, and aesthetic goals.
 2. Siding shall be continued to within eighteen (18) inches of finished grade on any side, unless the foundation is stone, stone veneer, or other ornamental finish is applied.
 3. Brick, stone, or other ornamental accent materials shall wrap the corner for at least two (2) feet on any façade, or otherwise terminate at interior corners to give a finished appearance the architectural element.
 4. Coordinate changes in color and materials in association other changes in massing and modulation of the building.
 5. Use changes in color or materials to differentiate the ground floor from upper floors and the main body of the building from the top or roof-structure, particularly on buildings three (3) stories or more.
 6. In multi-building projects, use subtle variations in building materials and colors on different buildings, within a consistent palette of materials and colors.
- F. *Variation of Buildings.* All projects involving three (3) or more buildings shall provide variations in the elevation from the two (2) buildings on each adjacent side, and the three (3) nearest buildings on the opposite side of a facing block, with at least two (2) of the following:

1. Variations in the front entry features as indicated in Section 18.05.030. Variations shall include combinations of at least two (2) of the following changes:
 - a. Different types of entry features: such as porch, stoop, or entry court;
 - b. Different roof styles associated with the entry feature: such as gable, hip, shed, flat, arched, or no roof;
 - c. Different locations and extent of the same entry feature: such as centered, shifted left or right, or wrapped; projecting or embedded; and half or full lengths; and/or
 - d. Different ornamentation or architectural styles that lead to distinct qualities within a similar scale or pattern.
2. Variations in the façade composition, including massing, modulation, window types and placement, materials, and details and ornamentation, to the extent that the buildings have a distinct appearance;
3. Variations of the roof forms considering the type of roof, orientation of gables, or use and placement of dormers; or
4. Variations of the building type or models of the same type with distinctively different floor plans that lead to different massing. Mirror images of the same model and floor plan shall not be used to meet the variation requirement.

G. *Design Review.* Alternatives to the building design standards established in Section 18.05.060, Building design, may be authorized according to the Design Review process in Section 18.03.140, and based on the following applicable criteria:

1. The requirement is not consistent with the particular architectural style selected for the building based on reputable resources documenting the style.
2. The requirement would make the building less compatible with designs or characteristics of other buildings or sites adjacent to the project or that are prevalent throughout the area.
3. Deviations from material standards and any simulated products demonstrate a proven performance in terms of maintenance and quality appearance.
4. In all cases the deviation is the minimum necessary to address the circumstance, and there are no negative impacts to other design standards applicable to the building or site.
5. The alternative equally or better meets the intent of the standards.

18.05.050 Lot open space.

Block and lot open spaces complement the overall civic and open space system and provide active gathering places and aesthetic enhancements to the buildings and lots.

- A. *Lot Open Space Design.* Lot open space is required for each building type. Each building type shall provide the open space specified in Table 18-5-1, Residential lot standards, within the lot. Open spaces on a lot shall be arranged to create usable outdoor spaces that meet one (1) or more of the following types:
1. Private yards and spaces, including:
 - a. Front yards;
 - b. Courtyards;
 - c. Rear yards, provided they are at least three hundred seventy-five (375) square feet and at least fifteen (15) feet in all directions; or
 - d. Uncovered decks or patios, provided they are at least one hundred twenty (120) square feet and at least ten (10) feet in all directions. This space is limited to no more than twenty-five percent (25%) of the requirement for lot.
 2. For apartment or mixed-use buildings, rooftop decks, provided they are at least three hundred (300) square feet, and at least fifteen (15) feet in all directions. This space is limited to no more than twenty-five percent (25%) of the requirement for lot.
- B. *Multifamily common areas.* Multifamily developments providing over twelve (12) dwelling units require common areas within each site. One (1) common area is required for every three (3) buildings or every hundred (100) units, whichever is less. Each common area shall contain at least three (3) of the following, not to include a stormwater detention pond, but may include:
- a. Seasonal planting area.
 - b. Large, flowering tree.
 - c. Community garden.
 - d. Seating.
 - e. Pedestrian-scaled lighting.
 - f. Gazebos or other decorative structures.
 - g. Play structure intended for children ages five (5) to twelve (12).
 - h. Natural environmental features such as a creek or rock outcropping, but not weeds.
 - i. Swimming pool.
 - j. Dog relief area.
- C. *Design Review.* Alternatives to the open space design standards established in this Section may be authorized according to the Design Review process in Section 18.03.140. The alternative shall equally or better meet the intent of this Chapter, be within the established ranges, and be justified by any of the following criteria applicable to the request:

1. The specific standard is not practical due to the context and location of the lot and meeting the requirement would otherwise result in improper arrangement of the building or site.
2. In instances of infill development or a context where a clear pattern of existing buildings and lots on the same block and opposite block face present a different arrangement in terms of buildings and lot open spaces.
3. The lot has access to at least two (2) different active open spaces within one thousand (1,000) feet which meet the design and service area standards in Section 18.04.060.
4. In all cases the deviation is the minimum necessary to address the circumstance, and there are no negative impacts to other design standards applicable to the building or site.
5. The alternative equally or better meets the intent and design objectives of the standards.

18.05.060 Courtyard pattern.

- A. *Design objective.* A courtyard pattern can integrate multi-building projects into the neighborhood pattern by connecting formal open space to the street frontage and using that space as an organizing element for buildings and lots. It is an effective infill strategy or is appropriate on deeper lots and blocks. Residential buildings and lots may be designed to front on a courtyard based on the design standards in this section.
- B. *Applicability.* The courtyard pattern is appropriate where:
 1. Courtyards are arranged within the block structure and designed as an extension of the public streetscape and open and civic space system for the neighborhood;
 2. Blocks and surrounding lots are deep, allowing a different configuration of buildable lots; or
 3. Other developed areas where existing lot patterns in the vicinity warrant use of this pattern to facilitate infill development and compatible building types.
- C. *Eligible building types.* The following building types are eligible for this pattern, subject to the limitations stated:
 1. Small Apartments, up to five (5) buildings or thirty-six (36) units, whichever is less.
 2. Row Houses, up to four (4) buildings or twenty-four (24) units, whichever is less.
 3. Duplex/Multi-unit Houses and Detached Houses, up to ten (10) buildings or sixteen (16) units, whichever is less.
- D. *Design standards & exceptions.*

1. The minimum lot size per building may be reduced up to twenty percent (20%) from the requirement in Table 18-5-1, provided the courtyard is owned in common by all lots or otherwise established as a shared-space amenity.
2. The courtyard shall be designed according to the standards in Chapter 18.04 and have frontage on a public street and be accessible from the streetscape by a pedestrian passage.
3. Lots may front on the courtyard, rather than along a street. Building frontage standards shall apply on the courtyard and on the public street frontage.
4. Any buildings fronting on the street, or the sides of any buildings adjacent to the street, shall still meet requirements for public frontages and orientation standards in this section.
5. Vehicle access and parking for each lot shall be coordinated for all lots and buildings, be designed in a way that minimizes the impact the courtyard and lot frontages, and meet all frontage standards along the public street.
6. Courtyards shall be properly programmed and maintained to provide value and safety to the residents, and shall be located to be available to all residents.

18.05.070 Conservation pattern.

Residential lots and buildings may be arranged around an open space system that will preserve greater amounts of intact open and natural spaces or agricultural uses that are designed as focal point and community amenity.

- A. *Applicability.* The conservation pattern is appropriate in more remote areas, and specifically is eligible in the AG or R1E zone districts.
- B. *Density bonus.* The base density and open space required shall be based on a typical and practical layout according to the underlying zone district, AG or R1E. The following density bonus may be granted based on the amount of additional intact open space to be preserved in the plan. The “bonus” units shall not require additional open space, other than the space specified in Table 18-5-7.
 1. Preserved area means the total percentage of the project area preserved as open space meeting the natural open space, trail, or preservation of productive agriculture lands criteria in Section 18.04.060.

Table 18-5-7, Conservation Density Bonus

| Preserved Area | Bonus Units Above Base Density | Example Using R1E Base Zoning | | | |
|----------------|---|-------------------------------|--------------------|------------------|-------------------------|
| | | Project Size | Base Density Yield | Additional Units | Developed area |
| 20% - 30% | 0 (but concentration on smaller lots permitted) | 10 ac. | 33 units | 0 | 33 units on 7 – 8 acres |

| | | | | | |
|----------------|------|--------|----------|----------|------------------------|
| 31% to 40% | 25% | 10 ac. | 33 units | 8 units | 41 units on 6 – 7 ac. |
| 41% to 50% | 50% | 10 ac. | 33 units | 16 units | 49 units on 5 to 6 ac. |
| 51% or greater | 100% | 10 ac | 33 units | 33 units | 66 units on 4 – 5 ac. |

C. *Lot sizes & building types.* The resulting density based on the plan after the density bonus is applied may be allocated in the developed portion of the project with the following building types. No combination of these building types may be used to allow more units than authorized by the density bonus. All other standards applicable to each building type in Table 5-1 shall apply within the developed portion of the plan.

1. Detached house other than small format
2. Duplex / multi-unit house
3. Row house

D. *Open space.* Open space shall meet the design criteria of **Section 18.04.020** for Natural Open Space, Trail, or include prime farmland or other existing and productive agriculture lands designed to be a focal point and community amenity. All lots shall have access to the public or common open space preserved as part of the plan within one thousand (1,000) feet, measured along pedestrian or trail routes.

18.05.080 Small Format Housing.

A. *Intent.* The intent of this section is to provide manufactured or other small-format homes in a neighborhood or community that includes common neighborhood amenities, and with site designs that limit impacts on adjacent property and promote development patterns that are compatible with the surrounding areas.

B. *Applicability.* Small format home communities are allowed where permitted by Table 18-5-1, Residential Lot Standards. These standards shall not apply to:

1. Mobile homes, trailers or similar temporary buildings used as an interim structure associated with an ongoing construction project under valid permits;
2. Interim or temporary housing strategies to address emergencies; or
3. Detached houses that are assembled off site and “manufactured,” provided they meet all other standards of the applicable zoning district.

C. *Small format development standards.* The following development standards are applicable to all small format home projects.

1. *Project size.* Three (3) acre minimum with two hundred (200) feet minimum frontage an arterial or collector street.
2. *Project intensity.* Fourteen (14) units per acre, maximum.

3. *Perimeter setbacks.* Twenty-five (25) feet minimum from right-of-way; twenty (20) feet from any property boundary with a transition buffer. See Section 18.08.020.
4. *Home sites area.* Minimum of two thousand (2,000) square feet; one thousand two hundred (1,200) square feet minimum for any project with more than thirty (30) of the project areas designed as usable open space meeting the types in Section 18.04.060.
5. *Home site width.* Twenty-five (25) linear feet minimum.
6. *Frontage.* On a public street, common internal street, or common open space with street access at the rear of the site.
7. *Setbacks for home sites.*
 - a. Front: Ten (10) feet, or fifteen (15) feet from the edge of the internal street, whichever is greater.
 - b. Side: Five (5) feet with ten (10) feet between buildings.
 - c. Rear: Ten (10) feet.
8. *Building height.* Twenty-five (25) feet maximum.
9. *Outdoor amenity.* Each home site shall have a private patio, courtyard or similar outdoor amenity of at least one hundred twenty (120) square feet.
10. *Accessory storage building.* Each home site may have an accessory storage building up to one hundred twenty (120) square feet, up to eight (8) feet tall. The accessory storage building shall be set back at least forty (40) feet from any public or internal street, or behind the dwelling unit. Accessory buildings shall be separated by at least five (5) feet from any other structure.
11. *Parking.* Each home site shall have at least two (2) on-site parking spaces, and at least one excess or guest space within two hundred fifty (250) feet of the unit. The excess or guest space may be "on-street" where streets are designed for parking or in a common area.

D. *Common areas.* All common areas not dedicated as home sites shall be allocated to:

1. Internal vehicle circulation for the community, laid out to provide connectivity and continuity through the community, and organize the project into blocks and lots so that all home sites and lots are served by streets. There shall be at least two (2) entrance points from public streets for each project. The internal street system shall meet applicable Engineering Standards and Specifications.
2. Open space meeting one of the design types specified in Section 18.04.060 at a rate of at least three hundred (300) square feet per dwelling or twenty percent (20%) of the overall project, whichever is greater.
3. A community building on at least one (1) open or civic space, which is centrally located, for recreation and meeting functions, laundry facilities, or other common

amenities. The community building shall be at one thousand (1,000) square feet, or fifteen (15) square feet per dwelling unit, whichever is greater.

4. Other internal circulation or open space such as walkways, landscape buffers or other site design amenities that improve the quality of the community and its relationship to surrounding areas. Pedestrian connections shall be accounted for on all streets or at greater intervals through a trail or path system.
5. A storm shelter which may be included with a community building.
6. A common storage and utility area, which shall be provided within the plan including at least one hundred (100) square feet per unit. This area may be used for storage of large equipment, recreational vehicles, maintenance or other utility functions for the community. This area shall be screened from the project and from surrounding property according to the barrier screen in Section 18.08.020.

E. *Small format building design.*

1. All dwellings shall have a front entry feature, such as a porch, stoop, or outside patio relating the home site to the lot frontage or other common open space upon which the dwelling is located.
2. Parking spaces on a home site shall be located to the side or rear of the dwelling and may be covered with a building code compliant cover.
3. Any non-foundational dwelling shall:
 - a. Be secured to the ground by tie downs and ground anchors in accordance with the applicable building code.
 - b. Be skirted within fourteen (14) days after placement in the community by enclosing the open area under the unit with a material that is compatible with the exterior finish of the mobile home and consistent with the character of the community.
 - c. Be blocked at a maximum of ten (10) foot centers around the perimeter, and this blocking shall provide sixteen (16) inches bearing upon the stand.
 - d. Be located on a hard surface pad with a minimum of eighteen (18) inch concrete ribbons or slabs capable of carrying the weight and of sufficient length to support all blocking points, with a proper surface between to control weeds.

F. *Landscape & parking design.* The standards of Chapters 18.07 and 18.08 are applicable to the RMH-zoned developments.

G. *Utilities.*

1. A sanitary sewer system shall be provided in the plan, all waste and sewer lines discharging from buildings and home sites shall be connected, and the entire system shall be connected to the City sewer system.

2. All service lines within the RMH zone district shall be underground.
3. Each home site or lot shall be provided with at least a three (3) inch sewer connection, trapped below frost line, with the inlet of the line to be not less than one (1) inch above the surface of the ground. The sewer connection shall be provided with suitable fittings so that a water-tight connection and proper vent can be made between the units drain and the sewer connection. Connections shall be constructed to be airtight when closed and not linked to a unit and shall be capped immediately after being disconnected from a unit to maintain them in an odor-free condition.
4. The water supply shall be connected to all service buildings and all home sites. The entire system shall be connected to the City water system. All internal service lines shall be a minimum of four and one-half (4.5) feet below finished grade. An individual water service connection, which is provided for the direct use by a home site, shall be constructed to prevent damage from placing housing units. Connections shall have individual valves below frost depth, with a valve box to grade.
5. All plumbing shall comply with the Uniform Plumbing Code and health regulations of the City, of the applicable county, and of the State. Water lines shall not be installed within ten (10) feet of any sewer line.
6. The storage, collection and disposal of refuse shall be managed to avoid health hazards, rodent harborage, insect breeding areas, accident hazards, air pollution, or other conditions which endanger health, safety, or welfare. Refuse collection containers shall be set on concrete pads and screened from adjacent property and from the common areas of the community.

H. *Small format subdivisions.* Each home site may be individually platted if:

1. All lots have public utility access as provided in Chapter 18.04, including public easements for access to each home site and all other subdivision standards and criteria are met;
2. All dwellings are on a permanent foundation; and
3. There are covenants, restrictions, or associations assuring that the provisions for development standards, common areas, building design and utilities and services will be maintained in perpetuity through an owners association.

[Repeal and replace Chapter 18.06]

CHAPTER 18.06 NONRESIDENTIAL DEVELOPMENT

18.06.010 Intent and applicability.

Nonresidential development standards include the design of frontages, the relation of buildings and sites to the streetscape; design of buildings, the relation of buildings to the lot and surrounding spaces and buildings; and open space, the design of other unbuilt portions of the lot.

A. The intent of the Nonresidential Development and Design standards is to:

1. Improve the appearance and vibrancy of mixed-use, commercial, and employment centers with good civic design.
2. Strengthen the accessibility of places by coordinating site access and internal circulation systems with multi-modal street networks.
3. Reinforce the distinct character of different corridors, centers, and districts with building and landscape design appropriate to the context.
4. Enable a range of compatible buildings and sites that meet the intent of each zoning district.
5. Stimulate lasting and sustained investment in corridors, centers, and districts with quality design.

B. *Applicability.*

1. The standards in this Chapter apply to all new or substantially-improved nonresidential and multi-use development, including sites or structures; except where stated that Sections only apply to specific districts or specific situations.
2. Modification or additions to existing structures or sites to the extent of the modification or addition, except that the Director may waive any design standards applied to modifications or additions that:
 - a. Conflict with the consistent design of an existing building;
 - b. Conflict with a desired and prevailing character on the block or immediate vicinity of the project; or
 - c. To otherwise facilitate infill development or adaptive reuse of an existing building.
3. The standards shall not apply to ordinary maintenance of existing buildings or sites, except that maintenance shall not occur in a manner that brings the building or site to a greater degree of nonconformance with these standards.

18.06.020 Lot creation.

G. *Nonresidential lot standards.* The dimensional standards for nonresidential lots are set forth in Table 18-6-1 and in this Section.

1. Residential uses in the R-C district shall be developed according to development and design standards in Chapter 18.05, Residential Development and Design.

Table 18-6-1, Nonresidential Lot Standards

| Table 18-6-1, Nonresidential Lot Standards | | |
|--|-----------------------|----------|
| Zone District | Maximum Lot Standards | |
| | Area | Width |
| R-C | 25,000 SF | 150 feet |
| C-1 | 25,000 SF | 150 feet |
| C-2 | 2 acres | 300 feet |
| C-3 | n/a | n/a |
| C-4 | n/a | n/a |
| I-1 | | |
| I-2 | n/a | n/a |
| I-3 | n/a | n/a |
| all other zones | 25,000 SF | 300 feet |

18.06.030 Frontages.

- A. *Frontages, generally.* The design of lot frontages establishes the relationship of buildings and lots to the streetscape. Frontage design includes building placement, lot access, garage extent and location, and entry features.
 1. Where multiple frontage types are permitted, the applied frontages should be similar for all lots on the same block face or gradually transition to different building placement and frontage types on adjacent lots.
 2. The front building line of adjacent buildings shall not differ by more than five (5) feet.
- B. *Nonresidential frontage types.* There are four distinct contexts for nonresidential and multiuse frontages:
 1. *Frontage A.* Urban-scale downtown centers.
 2. *Frontage B.* Pedestrian-oriented neighborhood centers.
 3. *Frontage C.* Car-oriented retail centers and indoor industrial facilities.
 4. *Frontage D.* Highway and rail-dependent industrial centers.
- C. *Frontage applicability.* Table 18-6-2 indicates preferred frontage types for each nonresidential zone district. The frontage of first preference shall be applied unless site constraints, such as utility location or lot size, prevent application. In this case, the frontage of second preference shall be applied. New subdivisions shall be designed for preferred frontages unless a Design Review has approved a second or third preference frontage.

Table 18-6-2, Nonresidential Frontage Preference for Application

| Zones | 1 st | 2 nd | 3 rd |
|-------|-----------------|-----------------|-----------------|
| | | | |

| | | | |
|---------------|---|---|---|
| R-C, C-2 | A | B | C |
| C-1 | B | C | |
| C-3, C-4, I-1 | C | D | |
| I-2, I-3 | D | C | |

D. *Frontage design.* Frontage design determines the relationship between private development and the streetscape and affects the character of different streets, blocks, and districts. Table 18-6-3 and the following subsections provide design strategies and techniques to meet the intent and standards for nonresidential lot development.

Table 18-6-3, Nonresidential Frontage Design

| | Frontage A | Frontage B | Frontage C | Frontage D |
|---|---------------------------|----------------------------|------------------------|------------------------|
| Front Building Line (build-to range) | 0 – 15 feet | 10 – 30 feet | 25 – 100 feet | 80 feet + |
| Required Front Building Line (minimum) | 80% | 60% | 40% | n/a |
| Access Width (maximum) | 20 feet | 24 feet | 32 feet | 40 feet |
| Access Spacing | 1 per block max | 150' + | 75' + | 40' + |
| Parking Location | Behind principal building | Behind front building line | Any buildable location | Any buildable location |
| Parking Frontage (maximum) | Prohibited | 30% | 65% | Not Limited |

B. *Front building line.* All buildings shall establish a front building line within the build-to range specified in Table 18-6-3 based on the appropriate frontage type for the specific street and block. Building frontages are required to cover the minimum distance specified along the front building line parallel to the front lot line with either of the following:

1. Front building façades meeting the design standards in Table 18-6-3; or
2. Open spaces for public gathering that meets the requirements of subsection D. provided:

- a. It is limited to no more than fifty (50) linear feet or fifty percent (50%) of the lot frontage, whichever is greater;
 - b. There is a defined edge and features at the extension of the required front building line, such as decorative walls, fences, or landscape features; and
 - c. All building façades fronting the open space shall meet the building design standards otherwise applicable to the building frontage.
- B. *Access & parking limits.* Driveway and parking limits in Table 18-6-3, are applied through the following standards:
- 1. Access width limits apply to the first twenty-five (25) feet of the lot depth.
 - 2. Access spacing specifies the minimum distance between edges of driveways or internal access streets. However, the Engineering Standards & Specifications may specify different access standards on any particular lot, street, or block.
 - 3. In cases where these standards limit access to a lot, options that coordinate access to lots on the same block shall be used, including private streetscapes, alleys, common access lanes, or shared drives.
 - 4. All parking or other areas dedicated to vehicle circulation shall be setback as specified in Table 18-6-3, and be limited only to the extent specified along the frontage and front building line.
- E. *Landscape.* The remainder of the frontage between the street and front building line shall be designed according to the open space, landscape, or streetscape standards of Chapter 18.08, Landscape Design., and shall create an amenity for the site and building and be arranged to create usable outdoor spaces. The following may count toward required lot open space:
- 1. Private frontage landscape areas.
 - 2. Open space meeting the requirements for public or common open space in Section 18.04.060.
 - 3. Common rooftop decks provided they are at least two hundred (200) square feet, and at least twelve (12) feet in all directions. This space shall be eligible for credit up to twenty-five percent (25%) of the open space requirement for the lot.
 - 4. Private balconies or patios, provided they are at least one hundred (100) square feet, and at least eight (8) feet in all directions. This space shall be eligible for credit up to twenty-five percent (25%) of the open space requirement for the lot.

18.06.050 Building design.

Frontage design determines the relationship between private development and the streetscape and affects the character of different streets, blocks, and districts. Table 18-6-4 and the following subsections provide design strategies and techniques to meet the design objectives and standards for nonresidential building design.

Table 18-6-4, Nonresidential Building Design Standards

| Design Standards | Frontage A | Frontage B | Frontage C | Frontage D |
|---|--|-----------------|--------------------------------|--------------------------------|
| Wall Plane Limits | 50' / 500 SF | 100' / 1,000 SF | 100' / 1,000 SF | 150' / 2,000 SF |
| Blank Wall Limits | 15' / 300 SF | 30' / 600 SF | 50' / 1,000 SF | 50' / 1,000 SF |
| Building Entry (minimum) | 1 per 50 feet | 1 per 75 feet | n/a | n/a |
| First Story Transparency (minimum) | 60% | 40% | 40% within 50 feet of entrance | 40% within 25 feet of entrance |
| Upper Story Transparency (minimum) | 15% | 15% | 15% | n/a |
| Secondary or side elevations, within 20 feet of street | Meet design standards for at least 50 feet or 50% of elevation of building whichever is greater. | | | |
| Secondary, side or rear elevations, between 20 and 100 feet of, or visible from, a street | Meet standard at 30% of the requirement for primary elevations, except for required entries; OR be screened within 50 feet of the building per Section 18.08.030. | | | |

- A. *Massing & modulation.* Wall planes that exceed the linear feet or square footage limits in Table 18-6-4 shall be interrupted by one (1) or a combination of the following techniques:
1. Emphasize bays and vertical breaks at regular intervals with visible features such as columns, pillars, pilasters, or other details and accents coordinated with structural components of the building. These features should be between six (6) and forty-eight (48) inches wide, and project between four (4) and twenty-four (24) inches off the façade.
 2. Define horizontal building elements such as entrances or storefronts, or differentiate stories with features such as awnings, cantilevers, lintels, canopies, balconies, or similar horizontal details. These features should project between two (2) feet and six (6) feet from the wall, and create a continuous horizontal feature or rhythm of repeating horizontal features on an elevation.
 3. Break the volume of the building into distinct components with:
 - a. Step-backs of upper stories of at least ten (10) feet;
 - b. Recesses of the building footprint greater than four (4) feet; and

- c. Deviations that encompass at least twenty percent (20%) wall planes of the entire elevation.
 4. Differentiate horizontal façade components into a distinct base, body, and top with materials and architectural details.
 - a. For buildings less than three (3) stories, this can be a distinct foundation, a main façade, and an embellished roof structure, such as eaves and fascia for pitched roofs, or cornices and parapets for flat roofs.
 - b. For buildings three (3) stories or more, the first floor should be clearly differentiated from upper stories to establish the base, the remainder of the stories include the body, and an embellished roof structure or distinct top story establishes the top.
 - c. Any belt course or trim band establishing the break in base, body, and top should use a material or pattern distinct from the primary material, be six (6) to thirty-six (36) inches wide, and off-set from the wall plane four (4) to twenty-four (24) inches; or be a lesser trim associated with a material change.
 5. Use patterns of windows and doors to create a rhythm and balance of vertical and horizontal elements on the elevation.
 6. Use ornamental architectural details, and material and color changes associated with trim or massing elements on any other area that lacks differentiating features.
- F. *Entry features.* Primary public entrances shall be located on all front façades at intervals specified in Table 18-6-4, and be clearly defined with at least two (2) of the following elements:
 1. A single-story architectural emphasis such as raised parapets, gables, canopies, porticos, overhangs, pediments, arches, or recessions within the wall plane of at least three (3) feet.
 2. Transom or sidelight windows that frame and emphasize the entry.
 3. Architectural details such as tile work and moldings, columns, pilasters, or other similar material changes.
 4. Integral planters, seating, or wing walls associated with an entry court or plaza that integrates landscape and hardscape designs.
 5. For corner buildings, any entrance feature located on the street corner may count to both sides, and may be considered if located within twenty-five (25) feet from each corner for the purpose of the required primary entry feature intervals.
- G. *Transparency.* The transparency requirements of Table 18-6-4 shall be met with the following:
 1. Where expressed as a first story requirement, the percentage shall be measured between two (2) feet and eight (8) feet above the sidewalk grade, or within ten

(10) feet above the first-floor elevation if the building is set back more than ten (10) feet from the street.

2. Where expressed as an upper story requirement, the percentage shall be measured between the floor level and ceiling of each story.
3. For Frontage A, all required first story windows shall provide direct views to the building's interior or to a lit display area extending a minimum of three (3) feet behind the window.
4. For buildings setback more than twenty-five (25) feet from the street, clerestory windows may meet the window requirements.
5. Locate windows with one (1) or more of the following techniques:
 - a. Coordinate the façade composition considering the entire façade as a whole, and to break up large expanses into different components with the grouping of windows and doors.
 - b. Use projecting trim and ornamentation around windows to create depth, texture, and shadows on the façade.
 - c. Emphasize openings or combine groups of openings in association with ornamental details and architectural projections or recessions.

H. *Materials.* Buildings shall use materials specified and as allocated in Table 18-6-5, Nonresidential Building Materials. Application of materials shall result in textures and patterns that create visual interest and signify quality construction and detailing through the following techniques:

1. The predominant surfaces on building walls should be one of the primary materials listed in Table 18-6-5.
2. No more than four (4) materials should be used, including the use of secondary and accent materials.
3. Material changes should emphasize different elements of the building.
 - a. Where material changes are vertical (i.e., different materials stacked one above another), the transition between materials should include a belt course, trim band, sill, cap, frame, roof (if at ceiling height), or similar element to separate the two materials. Heavier and larger materials should be below lighter or smaller materials.
 - b. Where material changes are horizontal (i.e., different materials side-by-side) the transition between materials should occur at interior corners or at the trim line, architectural column or pilaster where the change is emphasizing different structural or massing components for a building.

Table 18-6-5, Nonresidential Building Materials.

| Primary Materials (50% to 90%) | Secondary Materials (20% to 40%) | Accent Materials (5% to 20%) |
|---|--|--|
| <ul style="list-style-type: none"> ▪ Brick ▪ Stone ▪ Slate ▪ Stucco ▪ Tinted, textured concrete masonry units ▪ Corrugated metal (I-districts only) | <ul style="list-style-type: none"> ▪ Any of the primary materials ▪ Wood siding ▪ Architectural tiles ▪ Tilt-up concrete panels with brick or stone facing ▪ Architectural metals (prefinished non-corrugated) ▪ Transparent or tinted glass | <ul style="list-style-type: none"> ▪ Any of the primary or secondary materials ▪ Precast stone ▪ Wood trim or simulated wood ▪ Translucent glass (not on first story) ▪ Corrugated metal ▪ Canvas or similar durable cloth (awnings only) ▪ Acrylic (canopies only) |

18.06.060 Design review criteria.

Alternatives to the nonresidential standards in this Chapter may be permitted by the Design Review process in Section 18.03.140. The alternative shall equally or better meet the intent of this Chapter, be within the established ranges, and be justified by any of the following criteria applicable to the request:

- A. The context presents a clear pattern of existing buildings and lots on the same block and opposite block face that are different from the requirements and are desirable to maintain.
 - 1. Frontages should be similar for all lots on the same block face or gradually transition to different frontage types in situations that enable multiple types.
 - 2. Front building lines on adjacent lots should generally not differ by more than ten (10) feet, unless substantial space exists between the buildings.
 - 3. Blocks with pedestrian amenities and on-street parking are generally appropriate for the Frontage Types A and B standards.
 - 4. Blocks with higher traffic speeds or volumes, that lack pedestrian amenities, or lack on-street parking are generally appropriate for Frontage Types C and D standards.
- B. Parking and access that serves a greater area beyond the site and block may deviate from these standards, provided it does not negatively impact development on adjacent lots and it is designed to minimize impacts on streetscapes.
- C. Civic uses or landmark buildings may deviate from frontage designs provided they are in a location that serves as a focal point for the surrounding area, and the exception is used for improved social space or aesthetic features on the frontage.
- D. The applicable standard is not consistent with the specific architectural style selected for the building based on reputable industry resources documenting the style.

- E. The applicable standard would make the building less compatible with designs or characteristics of other buildings or sites adjacent to the project or that are prevalent throughout the area, and that are desirable to reinforce.
- F. Deviations from material standards and any simulated products demonstrate a proven performance in terms of maintenance and quality appearance. Manufacturer specifications and/or precedents for application may be required to demonstrate that it will perform equally or better than the allowed material.
- G. Recreation and social spaces are otherwise adequately met and appropriate for context through spaces such as streetscapes, parks and open space, recreation centers, or other common and accessible amenities.

[Repeal and replace Chapter 18.07]

CHAPTER 18.07 ACCESS & PARKING

18.07.010 Intent and applicability.

- A. *Intent.* The intent of the Access and Parking standards is to:
1. Emphasize the importance of site access for multiple modes of transportation.
 2. Preserve streetscape design and street functions by coordinating access along block faces and internal to blocks.
 3. Create access and parking standards appropriate to the context of the site, considering surrounding development patterns, street design, and available modes of transportation.
 4. Provide the optimal amount of vehicle parking for individual sites, recognizing that too much and too little parking each have negative impacts.
 5. Maximize opportunities for on-street parking, shared parking, and reduced parking rates, and limit the inefficiency from underutilized and redundant surface parking on adjacent sites.
 6. Ensure appropriate site design features that mitigate the physical, aesthetic, and environmental impact of parking on streetscapes and surrounding sites.
- B. *Applicability.* Access and parking shall be shown on site plans, and access shall be shown on all plats according to the application requirements in Chapter 18.03. Specifically, the standards in this chapter apply to:
1. New major or minor subdivisions.
 2. New or substantially amended site plans.
 3. New or substantially improved multi-family and nonresidential structures.
 4. New or substantially improved parking lots, including but not limited to resurfacing.
 5. Infill and rehabilitation of existing sites. The Director may prorate the requirements to the extent of the development or site work, where full compliance is not possible or practical, and only apply the standards to portions of the site subject to development.
- C. *Limitations.* The access standards shall not limit the location of any existing access, except:
1. In conjunction with a public streetscape project;
 2. Where more than fifty percent (50%) of a parking area is added, reconstructed, or similarly impacted by development; or
 3. Where the existing access is determined to be a danger to public safety in association with any development application or street project.

18.07.020 Access.

- A. *Access, generally.* All accesses shall comply with the most recently adopted Engineering Standards and Specifications in addition to the standards in this Section.
- B. *Driveway access.* Driveways shall be located in accordance with Table 18-7-1, Driveways.

Table 18-7-1, Driveways

| TABLE 18-7-1, DRIVEWAYS | | | |
|--|----------------------------|----------------------------|------------------------------|
| Access | Setback from side lot line | Setback from street corner | Separation from other access |
| Residential lot, 1 to 6 units | 2 feet | 25 feet | 10 feet |
| Residential lot, 7 to 24 units | 6 feet | 50 feet | 75 feet |
| Nonresidential lot or residential lot, 25+ units | 10 feet | 50 feet | 100 feet |

1. Driveways shall be designed and located so that safe ingress and egress is provided, considering the function and design speed of the street from which the access is provided, and minimizing potential conflicts of all modes of transportation, including pedestrians, bicycles, and vehicles.
 2. Driveway spacing may be averaged along a block for residential lots or on local streets to allow the best arrangement considering grades, streetscapes, and building and lot layouts through a Design Review.
 3. The frontage design standards on a particular lot or block in Section 18.05.030.A and Section 18.06.040, may further restrict the width, location, or extent of driveways. Where driveway spacing standards for streets limit or prohibit access, shared driveways, common access lanes, or alleys internal to blocks shall be used.
 4. Access standards of this table shall apply to internal private streetscapes designed according to Section 18.04.010.B.2.d.
 5. Landscape, buildings, and other site elements at access points shall be designed to meet the sight distance requirements of the Engineering Standards and Specifications.
- C. *Arterial access.* Direct access to an arterial street shall be permitted only when the subject property has no other reasonable access to the street system, after considering alternatives such as access from side streets, shared driveways, common frontage lanes, rear alleys, or internal access streets.
 - D. *Shared access.* Wherever feasible, adjacent lots with a similar land use shall use shared access to preserve the streetscape and eliminate conflicts with pedestrians and vehicles.

1. Shared access may be located on the property line subject to nonexclusive access easements.

18.07.030 Alleys.

- A. *Use of alleys.* Alleys or shared access are encouraged for primary access to all blocks to meet the streetscape design standards in Chapter 18.04, and the frontage design standards in Chapters 18.05 and 18.06, where:
 1. Narrow residential lots are used and the cumulative impact of multiple access points would degrade streetscapes.
 2. In mixed-density neighborhoods, where a variety of housing types and lot sizes are coordinated by consistent frontage design.
 3. On pedestrian-oriented streets and on blocks in walkable and mixed-use developments.
 4. Where access management policies on specific streets promote consolidated access for multiple lots.
- B. *Alley configuration.* Alleys shall be dedicated right-of-way and connect through the block to a street at each end. Alternative alley configuration requires approval of a Design Review.
- C. *Alley access.*
 - A. Residential lots with alley access shall not also have access onto the street.
 - B. There are no separation requirements for driveway access from an alley.

18.07.040 Internal Circulation.

Internal circulation shall provide sufficient on-site storage for queued vehicles waiting to park, drive-through, or exit without interfering with street traffic.

18.07.050 Sidewalks.

- A. *Sidewalks, generally.* Internal sidewalks widths shall comply with the most recently adopted Engineering Standards and Specifications in addition to the standards in this Section.
- B. *Sidewalk connections.*
 1. All lots or development projects shall require sidewalk connections at the same or greater frequency as access provided for vehicles.
 2. Sidewalks shall connect building entrances to the following, in the most direct manner possible:
 - a. Sidewalks in the public rights-of-way or along private streetscapes;
 - b. Parking areas, and any parking area with a portion of it more than two hundred fifty (250) feet from the entrance shall require a dedicated sidewalk either through or along the perimeter of the parking area;

- c. Civic or open space, or other common areas designated for active use;
 - d. Transit stops, stations or similar ride share locations, existing or planned.
3. Trail, greenway, or pedestrian passages meeting the standards of Section 18.04.020 may account for a portion of this internal circulation network, provided it connects buildings, open spaces, and internal streets with similar networks external to the site and presents a logical connection point for pedestrians and bicycles.
- C. *Sidewalk design.* Internal sidewalks shall be designed to emphasize pedestrian priority and comfort with the following:
- 1. Separate sidewalks from driving surfaces by changes in the texture, raised surfaces, landscape edges, and similar distinguishing features, except for designated cross walks which may be painted.
 - 2. Provide adjoining landscaped areas that include trees, shrubs, flower beds, and ground covers meeting the landscape design standards in Chapter 18.08, Landscape Design.
 - 3. Provide pedestrian-scale light fixtures along all walkways.

18.07.060 Bicycle connections.

- A. Nonresidential and multi-unit dwelling projects with ten (10) or more units shall provide connections between the on-site bicycle parking and the public street or nearest bicycle route, trail, or greenway. These connections may be provided by:
- 1. An internal sidewalk where the distance is less than three hundred (300) feet and people may be expected to dismount and walk their bicycles;
 - 2. A shared use path at least ten (10) feet wide;
 - 3. An internal bicycle trail meeting standards in Chapter 18.04; or
 - 4. On-street bicycle accommodation meeting standards in Chapter 18.04.

18.07.070 Private streets.

- B. *Private streetscapes.* Any single site greater than five (5) acres or any development where lots are accessed via an easement shall provide a system of private streetscapes that establish access and circulation within the site:
- 1. Shall be designed to mimic public street cross sections in accordance with Chapter 18.04 including sidewalks, landscape amenities, on-street parking and travel lanes.
 - 2. May be treated as public streets for determining the proper location, orientation and design of sites, buildings, and utilities within the project.

18.07.080 Access Design Review Criteria.

- A. Alternatives to the access standards required in this section may be permitted through the Design Review process in Section 18.03.140. The alternative shall equally or better meet the design objectives when considering the specific site and context, and be justified by any of the following additional applicable criteria:
 - 1. The standards, when applied to a particular project or street, will adversely impact the function of the transportation network in the vicinity of the site.
 - 2. A specific access control plan has altered the application of these standards for the street segment.
 - 3. The project warrants a different access design when considering the functional class of the street, the streetscape design on the block, and the existing and anticipated adjacent land uses.
 - 4. In all cases alternatives shall be evaluated balancing the streetscape design, traffic conditions on the street segment, and bicycle and pedestrian needs within the area.

18.07.090 Required parking.

- A. Required parking areas shall be used solely for parking operable vehicles for patrons, occupants, or employees of the use.
- B. *Vehicle parking rates.* Table 18-7-2, Required Parking, provides minimum parking requirements for general categories of uses, which apply to all similar uses not specifically listed. The following criteria shall be used in interpreting the table:
 - 1. Employee or occupancy rates shall consider maximum number of employees or occupants likely to be on-site at one time. Where this number is not easily or readily determined, the maximum building code capacity may be used.
 - 2. Square footage rates shall be based on the leasable floor area or active area dedicated to the particular use, excluding areas dedicated to common or public areas, hallways, and bathrooms. Where this number is not easily or readily determined, eighty-five percent (85%) of gross floor area may be used.
 - 3. A seating or capacity rate shall consider the total number of seats based on industry standards for typical layouts of buildings or building codes.
 - 4. Where uses or sites have components of different uses (i.e., hotel with a restaurant), each component shall be calculated under most applicable rate.
 - 5. Where a use is not similar to a general use in the table or could meet more than one category, the Director shall determine the appropriate classification based on industry guides or the most similar use in terms of scale, format, and operation.

Table 18-7-2, Required Parking

| TABLE 18-7-2: REQUIRED PARKING | |
|---|---|
| USE CATEGORY / SPECIFIC USE | MINIMUM PARKING RATE |
| RESIDENTIAL USES | |
| One-unit, detached or attached dwelling (detached house, duplex, or rowhouse) | 2 / unit; 1 guest parking / unit |
| Multi-unit dwellings (3+ units) | <ul style="list-style-type: none"> ▪ Studio / Efficiency = 1.25 / unit ▪ 1 BR = 2 / unit ▪ 2BR = 2 / unit ▪ 3+ BR = 3 / unit ▪ 1 guest parking / 3 units |
| Long-term care facilities | 1 / 4 resident beds; 1 / 1 employee |
| Congregate residences | 1 / 2 beds |
| Boarding or Rooming Houses | 1 / guest bed, in addition to the unit requirement |
| PUBLIC/INSTITUTIONAL USES | |
| Assembly | 1 / 3 seats |
| School – elementary | 2 / classroom |
| School – secondary | 1 / 4 students; 1 / 1 employee |
| COMMERCIAL USES | |
| Entertainment facilities (theaters, bowling alley, auditoriums, arenas or stadiums) | 1 / 3 seats or patron accommodation |
| Restaurant, bar, tavern | 1 / 3 seats |
| Hospital | 1 / 2 patient beds; 2 / 3 employees |
| Office | 1 / 300 square feet |
| Retail Sales and Service | <ul style="list-style-type: none"> ▪ Under 2K = 2 / 1,000 SF ▪ 2K – 5K = 3 / 1,000 SF ▪ 5K to 50K = 4 / 1,000 SF ▪ 50K – 200K = 5 / 1,000 SF <p>Applied based on uses total square footage and not graduated to discount the lower thresholds for larger uses; except groupings of uses over 200K SF may blend the rate in subsets of individual tenants.</p> |
| Hotel; Hotel, Extended Stay | 1 / guest room + required space for accessory uses (restaurant, office, conference space, etc.) |
| MANUFACTURING/INDUSTRIAL USES | |
| Wholesale sales and service areas | 1 / 600 SF |
| Manufacturing and industrial activities | 1 / 2 employees + 1 / company vehicle |

C. *Guest parking.* Any residential subdivision over ten (10) units shall demonstrate sufficient guest parking through off-street parking on individual lots and remote guest parking pads on a block or neighborhood scale incorporated into the common area, open space, or streetscape designs.

D. *On-street parking.*

1. On-street parking within five hundred (500) feet of the site shall count towards the parking requirement for nonresidential uses at a rate of one half (0.5) space for every on-street space, provided no spaces fronting residential uses may be counted.
2. Where on-street parking is available but not marked, the minimum dimension for parallel parking along the curb space shall be used to determine the number of spaces.

E. *General exception.* The Director may reduce the required parking for any nonresidential use by up to three (3) spaces or ten percent (10%) of the required spaces, whichever is greater, due to the nature of a particular use or any unique circumstances on the site, provided there will be no negative impacts on adjacent property.

F. *Shared parking.* Required parking may be shared for any site containing multiple uses, or for adjacent sites with different uses demonstrating adequate parking during peak hours for all uses with approval of a Design Review.

1. Off-street public parking lots or structures or those parking facilities where a parking agreement has been established and are within five hundred (500) feet of the site shall count towards the parking requirement for nonresidential uses at a rate of one half (0.5) spaces for every off-street space, provided no spaces fronting residential uses may be counted.

18.07.100 Accessible parking.

- A. Accessible vehicle spaces shall be provided within the required spaces in accordance with the Americans with Disabilities Act (ADA) guidelines for quantity, design and location, including in Table 18-7-3.
- B. Accessible parking shall be located on the shortest accessible route to the primary entrance or main accessible entrance.
- C. Accessible spaces shall be at least eight (8) feet wide with a minimum five (5) feet-wide accessible aisle. Two (2) adjacent spaces may share the same accessible aisle.
- D. Van accessible space shall be required at a rate of one (1) per every eight (8) required accessible spaces, with a minimum of one (1). Van accessible spaces shall be eleven (11) feet wide with a minimum five (5) feet-wide accessible aisle.
- E. Signs shall be posted with a sign and pavement markings designating the space with the symbol of accessibility.

Table 18-7-3, Accessible Parking

| TABLE 18-7-3, ACCESSIBLE PARKING | |
|----------------------------------|---------------------------|
| Total Required Spaces | Minimum Accessible Spaces |
| 1 – 100 | 1 / 25 spaces |

| TABLE 18-7-3, ACCESSIBLE PARKING | |
|----------------------------------|------------------------------------|
| Total Required Spaces | Minimum Accessible Spaces |
| 101 – 200 | 1 additional / 50 spaces over 100 |
| 201 or more | 1 additional / 100 spaces over 200 |

18.07.110 Bicycle parking.

- A. All nonresidential and multi-unit residential buildings shall provide bicycle parking spaces according to Table 18-7-4, Bicycle Parking.
- B. Bicycle parking shall be designed according to the following standards:
 - 1. A structure shall be securely anchored to the ground and usable for both U-locks and cable locks, supporting a bike at two points of contact to prevent damage to wheels or frames.
 - 2. Bicycle parking for nonresidential uses shall be located within one hundred (100) feet of the primary entrance unless the Director approves an alternative location based on the site design and overall vehicle, bicycle, and pedestrian circulating for the site.
 - 3. Bicycle parking facilities may be located in the right-of-way subject to streetscape design plans and the Director approval.
 - 4. The Director may waive the bicycle requirement in contexts where bicycle transportation is unlikely due to street designs or for uses that are unlikely to generate patronage from bicycle riders, and where these factors are unlikely to change based on plans, development patterns, or capital improvement policies.

Table 18-7-4, Bicycle Parking

| TABLE 18-7-4, BICYCLE PARKING | |
|--|---|
| ACTIVITY | REQUIRED SPACES |
| Multi-unit Residential Buildings (3+ units) | 1 space for each 2 dwelling units |
| Primary school (Grades K – 8) | 1 space per 10 students |
| Secondary school (Grades 9-12) | 1 space per 25 students |
| Commercial recreation and community facilities | 1 space per each 12 persons capacity |
| Public transit station | 10% of the required parking spaces, but at least 20 bicycle parking spaces. |
| General non-residential uses | 10% of the required vehicle spaces, but at least 2 bicycle parking spaces |

| TABLE 18-7-4, BICYCLE PARKING | |
|--|----------------------------|
| ACTIVITY | REQUIRED SPACES |
| Other institutional, employment, industrial, or entertainment uses | 5% of the required parking |

18.07.120 Parking design.

- A. *Design objectives.* The layout, location and design of parking areas shall meet the following design objectives.
1. Locate parking and circulation in ways that minimize negative impacts on the flow of traffic, public streetscapes or adjacent sites.
 2. Incorporate sustainable practices into parking design to minimize runoff, decrease heat island effects, incorporate low impact design features, and otherwise reduce environmental impacts.
 3. Encourage smaller and more dispersed parking areas to reduce impacts.
- B. *Parking location.*
1. All required parking shall be on-site except as specifically provided in this Chapter subject to the following specific considerations:
 - a. It is within five hundred (500) feet of the subject site;
 - b. It is in the same or comparable zone district;
 - c. The presence of the off-site parking area does not negatively impact potential development on that lot or in the vicinity;
 - d. There are no pedestrian barriers or other access constraints between the parking and the use, and safe connections are provided between each; and
 - e. For shared parking, an agreement demonstrating rights and control of the off-site property shall be provided.
 2. No parking space shall be located where it backs into a street except for on-street parking, or parking on any internal street or access drive designed to correspond with public street standards.
- C. *Drainage.* Parking and access areas shall be designed to adequately address drainage and runoff, including curb, gutters and inlets, or other drainage strategy approved by the City Engineer to support best management practices to minimize runoff and encourage infiltration of storm water.
- D. *Grading.* Off-street parking areas and driveways shall be graded and paved with an all-weather material meeting the Engineering Standards and Specifications.

- E. *Striping.* Off-street parking spaces shall be outlined with painted stripes or other similar markings on the surface. All non-parking spaces, such as loading zones, emergency lanes, drive-through lanes, or spaces in front of doorways and entrances shall be clearly differentiated from parking.

18.07.130 Parking dimensions.

A. Parking areas shall be designed to meet the dimension specifications in Table 18-7-5: Parking Dimensions.

- 1. *Bumper overhang.* Amount of Depth to Curb dimension that may overhang landscape area or sidewalk. If overhanging sidewalk, this amount shall be added to the required minimum sidewalk width.

Table 18-7-5, Parking Dimensions

| Parking Angle Width | Width | Length | Depth to Curb | Curb Width | Aisle Width – One-way | Aisle Width – Two-way | Bumper Overhang |
|---------------------|----------|---------|---------------|------------|-----------------------|-----------------------|-----------------|
| 0° | 7.5 feet | 22 feet | 7.5 feet | 22 feet | 12 feet | 20 feet | n/a |
| 30° | 8.5 feet | 20 feet | 16 feet | 17 feet | 13 feet | 20 feet | 1.5 feet |
| 45° | 8.5 feet | 20 feet | 18 feet | 12 feet | 15 feet | 20 feet | 1.5 feet |
| 60° | 9.0 feet | 19 feet | 21 feet | 10.5 feet | 18 feet | 24 feet | 2.0 feet |
| 90° | 9.0 feet | 18 feet | 18 feet | 9.0 feet | 20 feet | 24 feet | 2.0 feet |

18.07.140 Parking lot landscape.

- A. The landscape area standards in Table 18-7-5, Parking Lot Landscape are based on the size of the parking area (number of spaces) and the location of the parking area relative to the principal building (front, side, or rear).
- B. The landscape areas required by Table 18-7-5 shall be allocated as follows:
 - 1. The perimeter landscape areas shall be continuous, except for driveways or sidewalks accessing the parking area.
 - 2. Interior landscape islands shall be either:
 - a. A peninsula extending from the perimeter landscape area at the required intervals, at least six (6) feet wide and one hundred (100) square feet.
 - b. An end cap island at the required intervals that is at least eight (8) feet wide and at least one hundred fifty (150) square feet for one (1) stall and at least three hundred (300) square feet for two (2) stalls; or
 - c. A continuous center strip between two (2) opposing stalls along the entire parking bank that is at least six (6) feet wide.

3. Any perimeter area that includes a sidewalk shall meet both the sidewalk width and perimeter landscape area width independently, with no landscape area being less than six (6) feet wide.
 4. All perimeter and internal landscape areas shall include plant materials meeting the requirements of Chapter 18.08, Landscape Design.
- C. Shrubs shall be located to define parking lot edges, screen parking from adjacent sites, or create low barriers along sidewalks and streetscapes.
 - D. Any parking within twenty (20) feet of the right-of-way shall meet streetscape landscape requirements.
 - E. Parking lot plantings shall include low-water plant selections.
 - F. Actual location and setback of parking areas may be further limited by frontage design types in Chapters 18.05 and 18.06.

Table 18-7-6, Parking Lot Landscape

| Spaces per parking lot | Front of Building | Side & Rear of Building |
|------------------------|---|--|
| 151 or more | Prohibited – must be broken into smaller parking blocks | <ul style="list-style-type: none"> ▪ 10-foot perimeter buffer; and ▪ 10 spaces per internal island |
| 51 or 150 | 20-foot front setback buffer 10-foot perimeter buffer 10 spaces per internal island | <ul style="list-style-type: none"> ▪ 6-foot perimeter buffer ▪ 15 spaces per internal island |
| 20-50 | 10-foot front setback buffer 6-foot perimeter buffer 15 spaces per internal island | <ul style="list-style-type: none"> ▪ 6-foot perimeter buffer |
| Under 20 | 6-foot front setback buffer 6-foot perimeter buffer | <ul style="list-style-type: none"> ▪ 6-foot perimeter buffer, except where abutting an alley |
| Residential, 4 or more | 30-foot front setback buffer and behind front building line | <ul style="list-style-type: none"> ▪ 6-foot perimeter buffer, except where abutting an alley |

18.07.150 Loading areas.

- A. All non-residential uses and residential buildings with twenty-five (25) or more units shall require loading areas as indicated in Table 18-7-7, Loading Areas.

Table 18-7-7, Loading Areas

| Gross Floor Area | Required Loading Area and Size |
|---------------------|---|
| Under 10,000 SF. | Not required, may be shared |
| 10,001 – 25,000 SF. | 1 space; 10 feet x 25 feet |
| 25,001 – 40,000 SF. | 2 spaces; at least 1 of which is increased to 10 feet x 40 feet |

| Gross Floor Area | Required Loading Area and Size |
|--------------------|---|
| 40,001 or more SF. | 3 spaces, plus 1 for every 50,000 SF. over 100,000 SF; at least 50% 10 feet x 40 feet |

1. Loading areas shall be located on a remote portion of the building and site or internal to the block and buffered by other buildings wherever possible.
2. Loading areas and activities shall not interfere with the use of walkways, drive aisles, stacking areas, internal access streets or public streets.
3. Loading shall be screened from public streets or adjacent residential areas in a manner that best limits visibility and mitigates noise, according to the buffer types and design standards in Section 18.08.020.
4. In any area, project, or zoning district designed to promote pedestrian activity, or for buildings and sites where more compact building and site design is required, alternate loading standards may be permitted through Design Review.

18.07.160 Parking design review criteria.

- A. Alternatives to the parking design standards in this section may be permitted through the Design Review process in Section 18.03.140. The alternative shall equally or better meet the design objectives when considering the specific site and context, and be justified by any of the following additional applicable criteria:
 1. To facilitate infill development or where site constraints hinder the ability to meet the dimensional standards.
 2. To integrate more sustainable practices considering the water quality, air quality, energy efficiency, or other similar environmental impacts.
 3. To better accommodate any non-vehicle or other alternative modes of transportation.
 4. Any alternative shall be based on documentation that the proposed dimensions and arrangements will not require unsafe or impractical vehicle maneuvering.

[Repeal and replace Chapter 18.08]

CHAPTER 18.08 LANDSCAPE DESIGN

18.08.010 Intent, applicability, and design objectives.

A. *Intent.* The intent of the landscape and site design standards is to:

1. Improve and maintain the image of the City and build value with a well-designed public realm, including streetscapes, trail systems, open spaces, and natural areas.
2. Emphasize distinct areas throughout the City with the location and design of landscape areas.
3. Leverage the impact of landscape and design amenities across multiple sites by coordinating the design of streetscapes, lot frontages, and other open spaces.
4. Strengthen the character, quality, and value of development with landscape design that serves multiple aesthetic, environmental, recreational, and social functions.
5. Enhance the ecological function of unbuilt portions of sites, and protect and integrate established natural amenities into development projects.
6. Screen and mitigate the visual, noise, or other impacts of sites and buildings.
7. Conserve water and shift to water-conscious landscape design that is regionally appropriate and specific to the arid Front Range climate.

B. *Applicability.*

1. Construction or development of a site in one of the following categories shall not be undertaken until a landscape plan that meets or exceeds the standards of this Chapter has been approved by the Director. This shall apply to the following:
 - a. Common and public areas of any new major or minor subdivision.
 - b. New or substantially amended site plans.
 - c. New or substantially improved multifamily and nonresidential structures.
 - d. New or substantially improved parking lots.
 - e. Infill and rehabilitation of existing sites. The Director may prorate the requirements to the extent of the development or site work, where full compliance is not possible or practical, and only apply the standards to portions of the site subject to development.

C. *Design Objectives.* Landscape plans shall meet the following design objectives:

1. Frame important streets and emphasize gateways with street trees, landscape massing, and other vertical elements.
2. Provide comfort, spatial definition, and visual interest to active outdoor spaces including walkways, civic spaces, parks, trails or other similar outdoor gathering places.

3. Improve resource and energy efficiency with landscape arrangements that consider wind blocks, heat gain, water usage, solar access, and other elements inherent to the site.
4. Promote storm water management and prevent erosion through natural landscape elements that intercept, infiltrate, store, or convey precipitation and runoff.
5. Locate plants, landscape features, and site design elements sensitive to seasonal solar and shading conditions, particularly maximizing summer shade and winter sun on active portions of sites.
6. Encourage the protection and preservation of healthy plants and landscape features that can meet current and future needs of the site through development, rather than plant and design new ones.
7. Mitigate impacts of parking and circulation, utility and service areas, or other high impact areas of sites on adjacent property.

18.08.020 Landscape design.

- A. *Required landscape.* Required landscape for each site element is outlined in Table 18-8-1, Plant Requirements, and Table 18-8-2, Buffer Requirements.
 1. *Streetscape.* Generally, that space within six (6) to ten (10) feet of a street, but also applies to walkways and trails. The width of the streetscape may be narrower to account for infill situations or more compact, urban conditions; or may be wider when combined with additional landscape or setback requirements.
 2. *Front yard.* The area between the building line and the right-of-way, including street sides of corner lots.
 3. *Parking.* Areas on the perimeter, or interior of parking lots.
 4. *Open spaces.* Areas of the site designed as part of a broader system of formal and natural open spaces. See Section 18.04.060.
 5. *Unbuilt areas.* All other required unbuilt or unpaved surfaces or common areas. All other unbuilt or unpaved areas require ground cover, perennials, grasses, decorative rock, mulch or other natural and permeable surfaces. Landscaped areas may consist of inorganic (non-living) decorative material such as river rock, colored pea gravel, boulders, pavers, or similar natural material, provided it is designed and arranged in a way that can infiltrate runoff through associated planting areas and includes plantings in or around the design. Artificial turf is not acceptable for public or common areas.
 6. *Dimensions.* “Linear dimensions” in Table 18-8-2 refer to the outside length of the perimeter or the linear feet of a use or area requiring the screen or buffer.
 7. *Tree substitution.*

- a. Where shade or evergreen trees are impractical, ornamental trees may be substituted at a rate of two (2) for one (1) up to fifty percent (50%) of the requirement. Ornamental trees may be used where trees are to be located within ten (10) feet of any overhead wires.
 - b. Evergreen trees, where allowed, may be substituted for ornamental or shade trees at a rate of one (1) for (1) for up to fifty percent (50%) of the requirement.
8. *Shrub substitution.* Three (3) ornamental grasses may be substituted for each shrub up to fifty percent (50%) of the requirement.

Table 18-8-1, Plant requirements

| Site element | Deciduous trees: ornamental | Deciduous trees: shade | Evergreen trees | Shrubs |
|---------------|---|--|-----------------|---------------------------------------|
| Streetscape | Not required | 1 / 35 feet | Not allowed | Not required |
| Front yard | 1 / 35 feet, if principal building is set back 10 feet or more | 1 / 35 feet, if principal building is set back 30 feet or more | Not required | 5 / 35 feet |
| Parking | 1 / 6 spaces; 1 shade tree or 2 ornamental trees / parking island | | | 1 / parking island or landscape strip |
| Unbuilt Areas | 16 / acre | | | 80 / acre |

Table 18-8-2, Buffer requirements

| Site element | Minimum width | Trees | Screen |
|--------------|---------------|--|--|
| Transition | 20 feet | 1 / 35 feet | 1 6-foot-high shrub / 6 feet |
| Barrier | 30 feet | 1 shade tree AND 1 ornamental tree / 35 feet | 6-foot-high solid fence or wall AND 3 to 6-foot shrubs and perennials along 50% the exterior fence |

- A. Credits for existing vegetation. Preservation of existing landscape material that is healthy and of a desirable species may count for landscape requirements, subject to the following:

1. Landscape plans shall provide an inventory of all existing trees or significant woody vegetation including size, health, species, and any proposed for removal.
 2. Existing landscape credits shall only count towards the portion of the site where it is located, according to the site elements in Table 18-8-1. For example, an existing tree may only count towards the required planting for parking lot perimeters if it remains in the parking perimeter in the final design.
 3. Credits shall be on a one (1) for one (1) basis, provided it meets the minimum specifications for new plants. The Director may approve landscape material that is larger or of exceptional quality due to species, location, health, or maturity on a two (2) for one (1) basis.
 4. Trees or other existing landscape that contribute to the standard shall be identified on a landscape plan. Tree protection measures shall be based on applicable industry standards and best practices to ensure survival of the landscape.
 5. Any desirable and mature tree that cannot be maintained may require mitigation in the landscape plan. Replacement shall generally be one (1) tree for every four (4) inches of DBH (diameter at breast height or four and on-half (4.5) feet from the ground) lost from tree removal.
- B. *Standard overlap.* Where landscape standards for different elements of a site overlap, effective site and landscape design may enable the space and plants to count toward more than one requirement, based on the greater plant requirement applicable to that area. For example, a required buffer area may coincide with a required parking perimeter, or a parking area perimeter may also be along a frontage, and the greater planting requirement between these areas can satisfy both requirements.
- C. *Design & Location.* The landscape required by Table 18-8-1 and Table 18-8-2 shall be arranged and designed in a way that best achieves the intent of this chapter and design objectives of this section, considering the context and adjacencies proposed on the site. Required plantings shall be planted in the following specific locations on the lot.
1. *Streetscape Trees.* Streetscape and frontage trees shall be located at regular intervals and in line with other trees along the block to create a rhythm along the streetscape and promote enclosure of the tree canopy.
 - a. In the absence of a clearly established line along the block, trees may be planted in the following locations in order of priority:
 - 1) Centered between the sidewalk and curb where there is at least a six (6) square-foot landscape area for shade trees and at least a four (4) square-foot landscape area for ornamental trees;

- 2) Planted in tree wells within wider walks on pedestrian-oriented or mixed-use streets. Tree well shall be at least twenty (24) square feet and at least four (4) feet in all directions;
 - 3) Five (5) to ten (10) feet from the back of curb where no sidewalk exists or from the sidewalk in other situations where the sidewalk is attached;
 - 4) Within the first ten (10) feet of the adjacent lot line where significant constraints in the right-of-way would prevent other preferred locations.
- b. Gaps between thirty-six (36) and seventy (70) feet shall require one (1) tree. Gaps between seventy-one (71) and one hundred (100) feet shall require two (2) trees.
2. *Front yard planting.* Front yard plantings shall be located in open spaces near the building and in planting beds along the building frontage.
 - a. Ornamental and evergreen trees shall be located within twenty-five (25) feet from the building.
 - b. Shrubs and smaller plantings shall be located within six (6) feet of the foundation.
 - c. Where planting beds are used within hardscape around a foundation, they should be at least four (4) feet wide, at least sixty (60) square feet, and concentrated along at least fifty percent (50%) of the building frontage.
 - d. Foundation plantings are not required in service and loading areas
 - e. Use larger and vertical landscape elements to frame entries, anchor the corners of buildings, and break up the visual impact of large or long building expanses.
 3. *Parking Lot Landscape.* Parking lot landscape requirements shall be planted in perimeter buffers and landscape islands planned and designed according to Section 18.07.120, Parking Design.
- D. *Buffers.* Buffer plantings shall be used to buffer and screen more intense uses or elements of sites according to the design objectives of this section.
1. Transition buffers shall be required:
 - a. At a common boundary between multi-unit projects with 10 or more units and detached houses
 - b. At a common boundary between commercial and residential uses.
 - c. At a common boundary between industrial and commercial uses.

- d. In a common open space along any residential lots that back to a collector or arterial street.
 - e. Along any side or rear boundary of a commercial or industrial use adjacent to highway or interstate.
2. Barrier buffers shall be required:
- a. At any transition between industrial and residential uses.
 - b. At any permitted outdoor storage area or our other outside industrial activity visible from the right-of-way or from a lessor intense use or zone district.
 - c. Along any residential boundary adjacent to state highway or interstate.
- E. *Screening.* The following site elements shall be screened from streets or adjacent property by placement of buildings, landscape, decorative fences or walls, or a combination of these screening strategies.
- 1. Electrical and mechanical equipment such as transformers, air conditioners, or communication equipment and antennas whether ground-, wall-, or roof-mounted.
 - 2. Permanent or temporary outdoor storage areas where supplies, equipment or vehicles are stored.
 - 3. Trash enclosures.
 - 4. Utility stations or fixtures.
 - 5. Delivery and vehicle service bays, except that bays do not need to be screened from adjacent property with the same or more intense zoning.
 - 6. Large blank walls or the rear and sides of buildings visible from public streets, public or common areas or other sensitive boundaries.
 - 7. Nonresidential or multi-family parking lots over ten (10) spaces adjacent to residential lots.
- F. *General Location Guidelines.*
- 1. Utilize three layers of landscape planting to provide depth, spatial definition, and better mitigation of noise and other impacts, considering:
 - a. Shade trees for high level layers, thirty (30) feet or greater;
 - b. Evergreen or ornamental trees for middle level layers, six (6) feet to thirty (30) feet;
 - c. Shrubs, annuals, perennials, and ground cover for low level layers, under six (6) feet.
 - 2. Avoid locating evergreen trees, fences, and other opaque screens that cause winter shade and freezing on the south sides near roads, sidewalks, trails, or other

active outside social areas. Use deciduous ornamental or shade trees that provide summer shade and winter sun in these locations.

G. *Visibility at Intersections.* Screens, buffers and landscape shall be located and designed to maintain proper lines of sight at all intersections of streets, alleys, driveways, and internal access streets as provided in the adopted Engineering Standards and Specifications.

G. *Design Review Criteria.* Alternatives to the landscape design standards in this Section may be permitted by the design review process in Section 18.03.140. The alternative shall equally or better meet the design objectives when considering the specific site and context, and be justified by any of the following additional applicable criteria:

1. The alternative results in better design of common or civic space on the site.
2. The alternative results in a better allocation of plants in relation to adjacent streetscapes or other public spaces.
3. The alternative is necessary to improve the longevity or survival of plant materials
4. The alternative protects areas of environmental significance, including habitat, floodplains, and river or riparian corridors.
5. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this section, and there are no negative impacts on other design standards applicable to the building or site.

18.08.030 Landscape specifications.

A. *Species.* All trees, shrubs, and seed mixes shall be selected and planted according to the planting list provided by the City. In addition to any species on these lists, alternatives may be proposed and approved as part of the development review provided, they:

1. Are documented by a landscape architect or other credible entity comparable in type and performance to any species on this list;
2. Are adaptable to the climate of the Front Range region and the specific conditions in which they are proposed;
3. Are not invasive or otherwise problematic to the overall health of the landscape; and
4. Are approved by City staff.

B. *Plant Specifications.* All landscape materials shall meet the American Standards for Nursery Stock standards, and be selected for their native characteristics or survival in the climate for the Front Range region. Plants shall meet the specifications in Table 18-8-3 at planting. "DBH" is diameter at breast height or the diameter of the tree trunk at four and half (4.5) feet from the ground.

Table 18-8-3, Plant Specifications

| Type | Specification |
|------------------------|--|
| Shade Tree | Minimum width 2 inches DBH; Mature height of at least 30 feet |
| Ornamental Tree | Minimum width 1.5 inches DBH; Minimum planting height 8-10 feet; Mature height 15 – 30 feet |
| Evergreen Tree | Minimum planting height 6 feet; Mature height at least 10 feet |
| Shrub | Minimum planting height 24 inches OR Minimum container size 3 gallons |
| Perennials | Minimum container size 1 gallon |
| Ground Cover | Time of planting 50% covered; Full coverage within 2 growing seasons |
| General | Plants used for screening and buffers shall achieve the required opacity and function in its winter seasonal conditions within 2 years following planting. |

- C. *Tree Diversity.* The required trees planted shall promote diversity with the species selection criteria in Table 18-8-4. Any streetscape or public area plan may achieve street tree diversity on a broader or block-scale basis while planting the same species on individual segments or specific areas for the urban design effect.

Table 18-8-4, Tree Diversity

| Required Trees | Diversity |
|----------------|---|
| 1 - 9 | No specific requirement. Trees should be diversified from existing trees in the vicinity. |
| 10 - 29 | At least 2 genera; AND At least 3 species No more than 50% of any one species |
| 30+ | At least 3 genera; AND At least 4 species No more than 33% of any one species |

- D. *Design Review Criteria.* Alternatives to the plant specification standards in this section may be permitted by the Design Review process in Section 18.03.140. The alternative shall equally or better meet the design objectives when considering the specific site and context, and be justified by any of the following additional applicable criteria:

1. The alternative is necessary to improve the longevity or survival of plant materials.

2. The alternative improves the health or general species mix specific to the context and vicinity of the site.
3. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts on other design standards applicable to the building or site.

18.08.040 Landscape installation and maintenance.

A. Maintenance.

1. Landscaped areas shall be maintained by the owner of the property. Property owners shall also maintain landscaped areas within the adjacent right-of-way unless an approved owners association assumes this obligation. Maintenance shall include, but not be limited to, irrigating, mowing, pruning, removal of trash and weeds and replacement of any required plantings that become diseased, infested or otherwise unhealthy.
2. All plantings shall be properly maintained. Plant materials which fail to grow within two (2) years, or which exhibit evidence of insect pests, disease, or damage, shall be appropriately treated. Any plant in danger of dying or already dead shall be removed and replaced. The Director may order the plants be removed and replaced, or otherwise enforce this as a violation of this Title.
3. All required plants shall be irrigated. The use of non-potable water is encouraged. The Director may approve temporary irrigation system for plants that can survive without irrigation once established.
4. Soil in areas intended for plantings shall first be amended according to City standards outlined in the adopted Water Conservation Guidelines in order to loosen compacted soil, improve the viability of plantings and reduce the amount of watering required. Rock mulch or gravel shall not be placed within two (2) feet of required trees. Pea gravel shall not be placed within twelve (12) inches of sidewalk or driveway Weed barriers shall be made of materials other than plastic.
5. All elements of an approved landscape plan, including plant materials, shall be considered material elements of the project in the same manner as parking, buildings, or other details and are similarly enforceable.

B. Installation.

1. All landscape plans shall require installation specifications including a watering system and statement of maintenance methods.
2. Landscape associated with a subdivision shall be installed in accordance with Section 18.04.080, Required Improvements.
3. Nonresidential and multifamily site landscape shall be installed prior to issuance of the first certificate of occupancy for the site or prior to commencement of use for a site that does not require a certificate of occupancy, unless otherwise specified in an

approved improvements agreement between the property owner or tenant and the City.

4. Single-family or duplex residential site landscape shall be installed within two (2) years of the date of the original occupancy certificate. The owner of such property shall install groundcover, as defined by this Chapter, over all land not within the building footprint, paved or otherwise overlain by impervious surface, including such areas located on adjoining rights-of-way.
5. Required landscape is subject to inspection one (1) year after commencement of use unless otherwise specified in an approved improvements agreement between the property owner or tenant and the City.
6. The City may require a performance guarantee or other surety for one hundred fifteen percent (115%) of the cost of required landscape as part of an approved improvements agreement if installation is expected to exceed the limitations of this Section. See 18.03.020, General procedures – Site improvements agreement.

18.08.050 Water conservation.

All landscape plans shall conserve water with landscape materials and design technique using the following xeric principles:

- A. Incorporate a “zoned planting scheme” to reduce water demand by grouping plants with similar water requirements together in the same hydrozone.
- B. Limit high-irrigation turf and plantings to appropriate high-use areas with high visibility and functional needs and use water-conserving or drought-tolerant grasses.
- C. Use drought tolerant plants, suitable to the region, with low watering and pruning requirements. Ensure that continued operations and maintenance of the landscape utilizes water-efficient strategies.
- D. Incorporate soil amendments and use of organic mulches that reduce water loss and limit erosion. All plant areas should receive soil amendments of at least three (3) cubic yards per one thousand (1,000) square feet.
- E. Install efficient automatic irrigation systems that incorporate water conservation measures, including spray heads for ground cover, drip irrigation for shrubs and trees, and high-efficiency or precision nozzles. Provide regular and attentive maintenance to ensure irrigation systems are functioning properly.
- F. Alternative sources of irrigation for all landscape areas are encouraged.

18.08.060 Stormwater Treatment.

- A. *Stormwater in landscape areas.* Landscape amenities that incorporate stormwater treatment are recommended, provided they can meet both the landscape design standards and the stormwater management performance standards. Techniques such as bioswales, water

quality ponds, and rain gardens should be used to infiltrate runoff from parking lots, streets, civic spaces, and other impervious surfaces wherever possible.

- B. *Detention requirements.* Stormwater detention areas, whether or not located on property separate from the development, shall meet all of the following provisions:
 1. Design and construction in a natural form to blend with the surrounding area.
 2. Trickle channels designed to appear natural, using materials such as cobble, river rock or similar materials.
 3. Installation of trees within and around the perimeter of the area at the rate of one (1) tree for every two thousand five hundred (2,500) square feet of surface area, with no more than twenty-five percent (25%) being ornamental trees.
 4. No trees or shrubs shall be located where they reduce the volumes below the design capacity.
 5. Installation of an irrigation system approved by the City.

18.08.070 Lighting.

- A. *Design Objectives.* Exterior lighting of sites and buildings shall meet the following design objectives:
 1. Provide safety and security in publicly accessible areas.
 2. Create comfort and atmosphere with softer and warmer lighting in gathering spaces, social places, and pedestrian-oriented areas and streetscapes.
 3. Accent the architectural features of buildings, gateways or other portions of sites visible from the streetscape or other public spaces.
 4. Design the appropriate scale of light considering pedestrian-oriented or vehicle-oriented portions of sites.
 5. Limit backlighting, uplighting, glare, or other impacts that outdoor lighting could have on adjacent sites.
 6. Comply with the “dark sky” principles for responsible outdoor lighting, including useful, targeted, controlled, low-level, and color-appropriate lighting.
 7. Use the appropriate design, location, and type of fixture to minimize lighting impacts and reinforce the character of distinct areas.
 8. Develop energy efficient lighting strategies in balance with other site lighting objectives.
- B. *Placement.* All exterior lighting placement shall be limited as specified in Table 18-8-5.

Table 18-8-5, Lighting placement limits

| | |
|-----------------------------|--|
| Driveways and Parking Areas | Maximum height: 20 feet in residential districts Maximum height: 30 feet in all other districts or situations |
|-----------------------------|--|

| | |
|---|---|
| Pedestrian Walkways, Plazas, Courtyards | Maximum height: 12 feet |
| Façades | Below the eave or cornice line |
| Building Mounted Security Lights | Minimum height required to provide adequate security |
| Light Poles | Setback from the property at least 5 feet, or at least 1/3 of the height, whichever is greater. |
| Other Nonresidential Lights | Maximum height: 12 feet |
| Other Residential Lights | Maximum height: 10 feet |

C. *Performance Standards.* In addition to the height and location standards, exterior site lighting shall meet the following performance standards:

1. All exterior fixtures shall be fully shielded and installed so that the direct illumination shall be confined to the property boundaries of the source, except for ornamental lights below five hundred (500) lumens, or two hundred (200) lumens where multiple fixtures are used.
2. The location, height, and fixture shield shall prevent indirect luminance onto any adjacent property or any public right-of-way, other than building mounted lighting on street-front buildings.
3. Lighting shall be designed to meet the functional and security needs of the site. Performance and operational characteristics, such as dimming interfaces or timers that reduce lights to minimal security levels for off hours, should be used.
4. A photometric plan prepared by a qualified professional may be required by the Director for large-scale uses or where certain compatibility and adjacency issues exist because of anticipated lighting.

CHAPTER 18.09 SIGNS

[Amend Title 18, Chapter 18.09, Section 18.09.080.E.1, Specific sign standards: Electronic message signs, by removing the language in red, ~~strikeout font~~ and replacing with language highlighted in yellow]

1. Limited to **properties with nonresidential uses.** ~~commercially zoned property in the U.S. 85 Districts. Electronic messages may be considered through a special use permit for allowed non-residential uses in other districts, provided it is limited to being an accessory component of an otherwise permitted sign.~~

[no other changes to Chapter 18.09]

[Repeal and replace Chapter 18.10]

CHAPTER 18.10 WIRELESS COMMUNICATION

18.10.010 – Intent.

It is the intent of the City, by establishing wireless communications standards, to ensure the quality and appearance of such infrastructure, including the placement and location of facilities; new construction of, and modification of, existing commercial and/or personal wireless service facilities that would ensure quality construction and compatible placement of facilities; and the appearance of new or improved developments coinciding with the Evans Comprehensive Plan, and this Title of the Municipal Code. The City additionally intends to encourage collocation of wireless communications facilities to minimize the number of wireless communications facilities, however, does not encourage the collocation of a large number of collocated towers in the same area.

18.10.020 – Definitions.

- A. *Alternative tower structure* means any man-made trees, clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures that conceal, where technically feasible, the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this chapter. A stand-alone pole in the right-of-way that accommodates small cell facilities is considered an alternative tower structure, provided it meets the concealment standards of this chapter. Alternative tower structures are not considered towers, for the purposes of this chapter.
- B. *Antenna* means any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.
- C. *Antennas, panel* means an array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.
- D. *Antenna, whip* means a single antenna that is cylindrical in shape and omni-directional.
- E. *Base station* means a structure or equipment, other than a tower, at a fixed location, that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes:

1. Equipment associated with wireless communications services such as private broadcast and public safety services, as well as unlicensed wireless services, and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this chapter, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
 2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks) that, at the time the relevant application is filed with the City under this section, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- F. *Building roof or wall mounted telecommunications facility* means a telecommunication facility where antennas are mounted either on the roof or face of a legally existing building other than a building or structure accessory to a telecommunications facility. Facilities within this category may include micro-cell or repeater facilities.
- G. *Camouflage or camouflage design techniques* means measures used in the design and siting of wireless communication facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of concealment design elements so that a facility looks like something other than a wireless tower or base station.
- H. *Concealment* means utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless tower or base station. Language such as "stealth," "camouflage," or similar in any permit or other document required by the City Code, is included in this definition to the extent such permit or other document reflects an intent at the time of approval, to condition the site's approval on a design that looks like something else. Concealment can further include a design which mimics, and is consistent with, nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate concealment design elements so that the facility looks like something other than a wireless tower or base station.
- I. *Collocation* means:
1. For the purposes of eligible facilities requests, the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.
 2. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

- J. *Eligible facility request* means any request for the modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving:
1. The collocation of new transmission equipment;
 2. The removal of transmission equipment; or
 3. The replacement of transmission equipment.
- K. *Eligible support structure* means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City under this chapter.
- L. *Equipment cabinet* means a cabinet or building used to house equipment used by telecommunication providers at a wireless communications facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.
- M. *Existing* means, for purposes of this section, a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.
- N. *FCC* means the Federal Communications Commission or any successor agency.
- O. *Freestanding WCF* means a facility that consists of a stand-alone support structure, antennae, and any related accessory equipment.
- P. *Licensee* means any person who holds a master license agreement or site plan permit to site, install, construct, collocate, modify, maintain, and operate a wireless communications facility in the public right-of-way.
- Q. *Master license agreement* means an agreement entered into between an applicant and the City which governs all of the applicant's installation, construction, and maintenance of small cell wireless communications facilities in the public right-of-way.
- R. *Micro-cell facility* means a telecommunications facility used to provide increased capacity in areas of high service demand or to improve coverage in areas of weak coverage.
- S. *OTARD (over the air receiving device)* means:
1. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or
 2. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or
 3. An antenna that is designed to receive television broadcast signals.
- T. *Related accessory equipment* means the transmission equipment customarily used with, and incidental to, wireless communication facilities antennas, including, by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

- U. *Right-of-way* means, in the context of this chapter, any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within the city limits.
- V. *Small cell facility* means a WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.
- W. *Substantial change* means a modification substantially changes the physical dimensions of an eligible support structure if, after the modification, the structure meets any of the following criteria:
1. For towers, it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;
 2. For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
 3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the eligible support structure but not to exceed four (4) cabinets per application; or for base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
 4. For any eligible support structure, it entails any excavation or deployment outside the current Site;
 5. For any eligible support structure, it would defeat the concealment elements of the eligible support structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;
 6. For any eligible support structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new

excavation that would not exceed the thresholds identified in paragraphs 1, 2, and 3 of this definition.

- X. *Tower* means any structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, without limitation, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative tower structures and small cell facilities in the rights-of-way are not towers.
- Y. *Transmission equipment* means equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- Z. *Wireless communications facility* or *WCF* means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, base stations, support equipment, small cell facilities, alternative tower structures, and towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this chapter.

18.10.030 – Operational standards.

The standards in this section apply to all WCFs. The applicant shall demonstrate to the City, in writing, that it meets all applicable standards and provisions of the Code.

- A. No WCF owner or operator shall exclude a competitor from using the same facility or location, except when collocation is not feasible or the City approves an alternate design. Upon request by the City, the owner or operator shall provide evidence why collocation is not feasible.
- B. If a telecommunication competitor attempts to collocate a WCF on an existing or approved WCF or location, and the parties cannot reach agreement, the City may require a third-party technical study, at the expense of either or both parties, to determine the feasibility of collocation.

- C. WCF owners or operators shall comply at all times with the current Federal Communications Commission standards for cumulative field measurements of radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the City, the City may require that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the City, to demonstrate compliance, the City may require, and the owner or operator of the WCF shall submit, a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the City finds that the facility does not meet federal standards, the City may require corrective action within a reasonable period of time, and, if not corrected, may require removal of the WCF. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.
- D. All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement ("signal interference letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems.
- E. If the WCF ceases operating for six (6) consecutive months, the facility owner or operator shall remove it within ninety (90) days. If the facility is not removed in that time, the City may notify the owner, by certified mail, or, in the case of a small cell facility, via the notification procedures outlined in the MLA, to remove the facility or the City will remove it at the owner's expense.
- F. Except for eligible facilities requests, any modifications to approved facilities shall be submitted to the Community Development Department at least thirty (30) days prior to any modification to increase the wind or weight loading capacity, height or footprint of a tower, and the Director may request copies of plans depicting such modification and other evidence necessary to demonstrate that such modifications are in compliance.
- G. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable building and safety codes. If upon inspection, the City determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the City may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
- H. Noise. Noise generated on the site must not exceed the levels permitted by the Colorado Revised Statutes or the provisions of the Evans Municipal Code. Any WCF owner or operator shall be permitted to exceed noise standards for a reasonable period of time during repairs subject to prior approval of the Community Development Director.

18.10.040 – Design standards.

The requirements set forth in this section shall apply to the location and design of all WCFs governed by this section as specified below; provided, however, that the City may waive any one or more of these requirements if it determines that the goals of this Section are better served thereby.

- A. *Compatibility.* WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the City, consistent with other provisions of this code.
- B. *Camouflage/concealment.* All WCFs and any related accessory equipment shall, to the maximum extent possible, use concealment design techniques, and where not possible, utilize camouflage design techniques. Camouflage design techniques include, but are not limited to, using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment.
 - 1. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.
 - 2. A concealment design may include the use of alternative tower structures, should the City determine that such design meets the intent of this chapter, and the community is better served thereby.
 - 3. All WCFs, such as antennas, vaults, equipment rooms, equipment cabinets, and towers shall be constructed of non-reflective materials (visible exterior surfaces only).
- C. *Siting.*
 - 1. No portion of any WCF may extend beyond the property line.
 - 2. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF unless the City approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or site.
 - 3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.
 - 4. WCFs shall not encroach into any sight triangles.
 - 5. Ground mounted equipment must be designed such that any ground mounted equipment must be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the Community Development Director. Ground mounted equipment shall be flush-to-grade and housed in an underground equipment vault, except where technically infeasible. Ground-based equipment may be located within the rights-of-way on a case-by-case basis, accounting for impacts of such equipment within the right-of-way on the public health, safety, and welfare

6. Except for small cell facilities, equipment mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof mounted antenna may also be located within the building on which the antenna is mounted, subject to generally accepted engineering practices. Equipment, buildings, antennas, and related accessory equipment shall occupy no more than twenty-five percent (25%) of the total roof area of a building
- D. *Lighting.* WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.
 - E. *Setbacks.* Towers and ATS not in the right-of-way shall meet the greater of the following minimum setbacks from all property lines:
 1. The setback for a principal building within the applicable zone district; or
 2. One hundred ten percent (110%) of the facility height, including antennas.
 - F. *Compatibility.*
 1. All towers or ATS shall:
 - a. To the maximum extent possible, use concealment design techniques, and where not possible utilize camouflage design techniques.
 - b. Comply with all applicable development standards in this Title.
 2. All ATS shall:
 - a. Be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is concealed.
 - b. Height or size of the proposed ATS should be minimized as much as possible and shall be subject to the maximum height restrictions of the zone district in which they are located, subject to a maximum height limit of forty (40) feet;
 - c. Be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
 - d. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
 - e. Be compatible with the surrounding topography, tree coverage, and foliage;
 - f. ATS shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way.
 - g. Any small cell facility attached to an electric distribution alternative tower structure may be located at the minimum height necessary to provide the safety clearance required by the electric utility.
 - h. Electric metering structures and/ or meters shall not be visible from the exterior of the pole or alternative tower structure which hosts the antennas

where the pole or alternative tower structure is located. This requirement may be wholly or partially waived by the Director where it is technically infeasible to place all, or part of a meter internally

G. Tower standards.

1. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the City.
2. No towers shall be permitted in the right-of-way.
3. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;
4. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application.
5. Unless exempted as an eligible facilities request, any transmission equipment placed on an existing tower shall not extend more than ten (10) feet above such pole.

H. Accessory equipment standards. Except as provided for in Subsection I in this Section, related accessory equipment for WCFs shall meet the following requirements:

1. Base stations shall be architecturally compatible with respect to attachments, and colored to match the structure to which they are attached. The buildings, shelters, cabinets, and other components shall be grouped as closely as technically possible and located below grade wherever possible.
2. Unless approved as part of a tower site, the total footprint coverage area of the applicant's related accessory equipment shall not exceed three hundred fifty (350) square feet.
3. No related accessory equipment shall exceed fifteen (15) feet in height.
4. Be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the related accessory equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site., and shall not reduce the parking requirement and landscaped area for other principal uses on the parcel.

18.10.050 - Small cell facilities.

- A. A small cell facility in the right-of-way or electrical utility easement shall be exempt from any the minimum setback requirements, shall follow standards outlined in a master license agreement executed with the City.
- B. Except for OTARD facilities, a residentially-zoned parcel may only have one (1) micro-cell facility or small cell facility (SCF). A building with residential units on a non-residentially-zoned parcel may have two (2) micro-cell facilities or small cell facilities.
- C. *Height.* Small cell facilities that do not qualify as eligible facilities requests must, 1) be mounted on a structure that is within the maximum height restrictions of the applicable

zone district , subject to a maximum height limit of fifty (40) feet including any existing antennas; or 2) be mounted on structures that are no more than ten percent (10%) taller than other adjacent structures; or 3) do not extend the height of existing structures on which the SCF is to be located to a height of more than a total of fifty (40) feet, or to a height of no more than ten percent (10%) of the original structure height, whichever is greater.

D. *Spacing and location*

1. *Priority.* Small cell facility locations shall be prioritized based upon technical and radio frequency needs and construction costs but, where feasible, attachments to poles shall be in the following order of placement priority
 - a. Third-party poles under the terms of a fully executed master license agreement with the owner of such poles;
 - b. City-owned poles, including street lighting poles and utility poles, in the right-of-way;
 - c. New street lighting poles approved by the City for street lighting purposes;
 - d. Proprietary poles of the licensee;
 - e. The City's traffic signal poles.
2. No stand-alone small cell facility shall block windows or any building entrances. To the extent feasible, poles shall be located at mid-blocks, away from intersections, except for residential districts in which case poles shall be located within fifteen (15) feet of the lot lines and not in front of residential properties. All poles shall be located so as to ensure proper sight-distance lines.
3. The pole design, if any, in the City right-of-way shall match the color, aesthetics, spacing, and architectural characteristics of existing streetlights installed adjacent to the pole.
4. Banner arms and luminaries are prohibited. A waiver of this prohibition may be granted upon a showing that an alternative design is technically infeasible.
5. Small cell facilities and related accessory equipment shall not be installed within the dripline of any tree.
6. Pole caissons shall be circular in nature and designed to minimize impact of adjacent and future utilities. All designs must be stamped and signed by a registered professional engineer in the State of Colorado.
7. Ground level equipment and buildings and the tower base shall be screened. The maximum floor area is three hundred fifty (350) square feet, and the maximum height is twelve (12) feet per carrier.

18.10.060 - Building wall or roof-mounted WCF.

- A. Standards for building wall or roof mounted WCFs. Except as provided for in Subsection I in building wall or roof mounted telecommunications facilities must comply with the following:
 1. A building wall mounted WCF may encroach into a setback a maximum of two and one-half (2½) feet.

2. A building roof mounted WCF, including antennas, shall not exceed the maximum structure height within the applicable zone district, with the following exceptions for facilities on existing buildings exceeding or within five (5) feet of the height limit.
 - a. Whip antennas shall extend no more than ten (10) feet above the parapet of any roof or the structure to which they are mounted.
 - b. Panel antennas shall extend no more than five (5) feet above the parapet of the roof to which they are mounted.
 - c. Related accessory equipment shall extend no more than five (5) feet above any parapet of the roof to which they are mounted.
- B. A building wall mounted WCF shall adhere to the following design standards to minimize impacts:
 1. Design materials, colors and location of the facility shall be compatible with the building and wall it is mounted on, and minimize adverse visual impacts.
 2. Mounting of antennas shall be as flush to the building wall as technically possible and shall not extend above the roof line of the building.
 3. Maximum area of panel antennas per building face shall not exceed twenty (20) square feet per facility or an aggregate total of sixty (60) square feet for all facilities.
- C. A building roof mounted WCF shall adhere to the following design standards to minimize impacts:
 1. Design, materials, colors and location of the facility shall be compatible with the building it is mounted on, and minimize adverse visual impacts.
 2. Antennas, support structures, related accessory equipment and all other roof-mounted appurtenances shall not exceed an aggregate total of twenty-five (25) percent of the building roof area.
 3. Only one (1) roof-mounted WCF may extend more than ten (10) feet above the existing building or structure.
- D. The WCF shall be mounted on a building wall if feasible, otherwise it may be mounted on the roof.
- E. Related accessory equipment for a building wall or roof-mounted WCF shall meet the following requirements:
 1. The buildings, shelters, cabinets, and other components shall be grouped as closely as technically possible.
 2. Total footprint coverage area of the applicant's related accessory equipment shall not exceed three hundred fifty (350) square feet, except where a larger footprint coverage area is approved as part of a tower site.
 3. No structure shall exceed fifteen (15) feet in height.
 4. Design, materials and colors shall be compatible with structures and vegetation on the same parcel and adjacent parcels, and shall not reduce the parking requirements and landscaped area for other principal uses on the parcel.

18.10.070 - Review procedure and requirements.

- A. *Applicability and Interaction with Telecommunications Act 47 U.S.C. Section 332(c)(7)*. If the City determines that the applicant is not requesting accessory wireless communication equipment covered by Section 18.02.030.O or is making an eligible facility request for modification of an existing WCF, the request shall be processed as follows:
 - 1. If the WCF includes a tower over forty (40) feet in height, the request shall be processed as a special use permit in accordance with Section 18.03.080 of this Title and meet or exceed the standards of this Chapter.
 - 2. If the WCF includes a tower up to forty (40) feet in height or does not include a tower, the request shall be processed as a telecommunication facility permit, the request shall be processed in accordance with this Section and meet or exceed the standards of this Chapter.
- B. *Procedure Timeline*. The presumptively reasonable timeframe under Section 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the required information under the applicable provision of this Code. The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the City's notice of incompleteness.
- C. *Decision*. Any decision to approve, approve with conditions, or deny an application requesting to place, construct or modify WCFs shall be in writing and supported by substantial evidence contained in a written record.
- D. *Application requirements for WCF permit*.
 - 1. A site plan submitted to the Community Development Department that contains the relative shape, size and location of all existing and proposed transmission equipment, guy wires anchors, if any, warning signs, fencing and access restrictions.
 - 2. A report signed by a licensed professional engineer demonstrating compliance with applicable structural standards and the general structural capacity of the proposed facility.
 - 3. The number, type and size of antenna that can be accommodated.
 - 4. A report that includes the following, if applicable:
 - a. A description of any proposed WCF including height above grade, materials and color.
 - b. A landscaping and/or visual mitigation plan (to scale) acceptable to the Director, detailing how screening from the public view will be accomplished, including cross sectional views, as appropriate.
 - c. An erosion control and revegetation plan, if applicable to the site.
 - 5. Each permit application shall be accompanied at the time of filing by a fee as established by City Council by resolution.
- E. *Eligible facility request*.
 - 1. The applicant shall provide the information necessary for the City to consider whether the facility modification would result in a substantial change to the physical dimensions of the site or violate a generally applicable law, regulation, or other rule reasonably related to public health and safety. The application may

not require an applicant to demonstrate a need or business case for the proposed modification or collocation.

2. If the City fails to approve or deny an eligible facility request within fourteen (14) days, the request shall be deemed granted; provided that this approval shall become effective only upon the City's receipt of written notification from the applicant after the review period has expired indicating that the application has been deemed granted.

18.10.080 – Nonconformity and enforcement.

A. Nonconformity.

1. All property within existing developments on the effective date of this Chapter which is not in compliance with the provisions of this Chapter shall be considered legal nonconforming for the purposes of this Chapter.
2. Unless qualified as an eligible facilities request, WCFs cannot be installed on nonconforming structures or buildings.

B. Compliance with applicable law. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the City Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:

1. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
2. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
3. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
4. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) days from the time of notification by the City or after discovery by the owner or operator of the site.

[Repeal and replace Chapter 18.11]

CHAPTER 18.11 DEFINITIONS

18.11.010 Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this Chapter shall have the meaning indicated when used in this Title. Words, phrases and terms not defined in this chapter but defined elsewhere in this title shall be construed as defined in such title. Words, phrases and terms neither defined herein nor elsewhere in this Title shall be given usual and customary meanings except where the context clearly indicates a different meaning.

Accent lighting means directional lighting to emphasize a particular object.

Accessory building or structure means a building or structure located upon the same lot as the principal building or structure to which it is associated, and which is incidental to and customarily found in connection with such principal building or structure, and which is not to be used for human habitation, including but not limited to garages and other buildings for storage.

Administrative, Decision or Process means a process or decision that is made at the city staff level, not by a hearing body. Typically, this term refers to an approval or interpretation by staff or the Director or other administrative personnel assigned by the City Manager.

Accessory use means a use customarily incidental and subordinate to the main use of the lot, building or structure, and which does not alter the principal use.

Agreement means a master license agreement (MLA) for small cell facilities in the public right-of-way and further defined in the master license agreement.

Agriculture means the production of crops such as vegetables, fruit trees, grain, plants, shrubs, vines or flowers; the growing of trees and shrubs for commercial landscape purposes, ranching, riding stables without arenas, and similar uses and activities.

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.

Applicant means the owners or lessees of property, their agent, or persons who have contracted to purchase property, or the City or other quasi-governmental entity that is proposing an action requiring review and approval by one or more of the sections in this title. An applicant may subsequently become the Developer once approval is granted and, in this case, the terms shall be interchangeable.

Aquifer means a water-bearing layer of sand, gravel or porous rock.

Art, dance, music studio means an establishment engaged in the creation of arts or crafts but may also serve for dance rehearsals and music rehearsals. Such an establishment may participate in periodic open studios or concerts, but otherwise is subject to the applicable district's requirements for incidental sales of goods made on site.

Articulation means the manner in which contiguous shapes are joined or formed to clarify or emphasize certain elements of the structure.

Articulation, horizontal means a method of breaking up the vertical appearance of a structure through varying horizontal planes.

Articulation, vertical means a method of breaking up the horizontal appearance of a structure through varying vertical planes.

Awning means a roof-like cover of canvas, metal, or other material extending in front of and over a door, window or deck to provide protection from weather.

Belt course means a continuous row or layer of stones, tile brick, or shingles, etc. in a wall often used to separate floors of a built structure.

Block means a group of platted lots and tracts connected as a distinct subset of the development pattern, and surrounded by streets or by other features that interrupt the street network such as parks, railroad rights-of-way, or municipal boundary lines; or the perimeter of all lots fronting on the street in the case of a cul-de-sac.

Buffer means an area of a site used to promote separation and enhance compatibility between land uses of different intensities, and using space, landscape, or the arrangement of buildings and structures, or any combination of these, to create separation or mitigate impacts.

Building means any structure built for the shelter or enclosure of persons, animals, chattels, property or substance of any kind, excluding fences. The word building includes the word structure.

Building footprint (building coverage) means that area or portion of a lot which is occupied or covered by all buildings on that lot.

Building frontage means the horizontal linear dimension of the façade of that portion of a building occupied by a single use or occupancy, for the purposes of allocating signs and other design requirements.

Building height means the height as measured from the average surrounding grade of the footprint of a building to the midpoint of a pitched roof or highest point of a flat roof.

Building scale means the size and proportion of a building relative to surrounding buildings and environs, adjacent streets, and pedestrians.

Building unit means a building used for residential purposes, or any building that is used for business or commercial purposes that is normally occupied during working hours.

Canopy, tree means the more or less continuous cover of branches and foliage formed collectively by the crown of one (1) or more trees.

Carport means a structure that is not fully enclosed and which is accessory to a residence or residences and capable of being used for storage of one (1) or more vehicles.

Carrier space means space on or within the poles that can be used, as defined in the City's electric standards and all other standards adopted in the Evans Municipal Code, for the

attachment or placement of wires, cables, small cell facilities, and associated equipment for the provision of communications services or electric services. The neutral zone or safety space is not considered carrier space.

Change of Use means a use that substantially differs from the previous use of a building or land and which may affect such things as parking, drainage, circulation, traffic, landscaping, building configuration, utility demands, noise, or lighting. A change of ownership which does not include any of the factors listed above shall not be considered a change of use.

City means the City of Evans, Colorado.

City Council or *Council* means the City Council of the City of Evans, Colorado.

Clustered; clustered development means a development technique which concentrates buildings on a portion of a site, so that the remaining land may be used for common area or open space.

Colonnade means a series of regularly spaced columns, usually supporting one (1) side of a roof structure.

Commercial residence means establishments for the housing of transient residences such as motels, hotels and tourist homes, except for living quarters of the operators.

Common space means space on the poles that is not used for the placement of wires or cables but which jointly benefits all users of the poles by supporting the underlying structure and/or providing safety clearance between attaching entities and electric utility facilities.

Comprehensive Plan means a plan for guiding and controlling the physical development of land use and circulation facilities in the City, and any amendment or extension of such a plan.

Consumer means any person contacted as a potential purchaser, lessee or renter, as well as one who actually purchases, leases or rents property in the subdivision.

Cornice means a continuous, molded projection that crowns a wall or other construction.

Court means a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three (3) or more sides by walls of a building.

Coverage means land area which is covered with impervious surfaces, such as buildings, patios or decks with roofs, carports, swimming pools, tennis courts, or land area covered by any other type of structure, including parking lots.

Crosswalk or *walkway* means a right-of-way dedicated to public use, to facilitate pedestrian access through a subdivision block.

Dead-end parking lot means a parking lot having only one (1) outlet and no area at the closed end for vehicles to turn around.

Dead-end sidewalk means a sidewalk that terminates abruptly with no connection to another sidewalk or pedestrian walkway.

Dead-end driveway means a driveway having only one (1) outlet and no area at the closed end for vehicles to turn around.

Dedication means a grant by the owner of a right to use land to the public in general or to the City, involving a transfer or conveyance of property rights, and an acceptance of the dedicated property by the appropriate public agency.

Developer means any person, partnership, joint venture, association, or corporation or other legal entity who or which shall participate as owner, promoter, designer, builder, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision. Interchangeable with “Applicant” for the purposes of this code.

Development means any construction or activity which changes the basic character or the use of improved or unimproved real property, as determined in accordance with the provisions of Title 18 of this code. These activities include, but are not limited to grading, paving, mining, excavating, and/or construction; moving vehicles, equipment or structures on site; making a substantial improvement to an existing structure, or the addition of a new structure; or a change in use of a building or the property. Development may necessitate a land use permit and/or other permits to be issued by the City of Evans. Development in Evans requires compliance with development standards of this Title.

Dwelling, condominium means a building, or group of buildings, in which at least three (3) dwelling units, offices, or commercial areas are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Dwelling, multifamily means a building with individual sanitary and eating facilities, occupied by two (2) or more families living independently of each other on a more or less permanent basis, but not including congregate residences and similar group accommodations.

Dwelling, single-family means a detached principal building, designed and intended to be occupied by not more than one (1) family with common access and use of eating and sanitary facilities.

Dwelling, townhouse means single-family attached dwelling of two (2) or more units but not more than six (6) dwelling units per structure, with each unit having separate eating and sanitary facilities, utility services, access, required parking for each of the units; no unit is located over another unit.

Dwelling, two-family means a building occupied by two (2) families living independently of each other with separate eating and sanitary facilities on a more or less permanent basis.

Dwelling unit means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the International Building Code, for not more than one (1) family, or a congregate residence for ten (10) or fewer persons.

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

Evans Municipal Code means City of Evans Municipal Code, and any regulations promulgated thereunder.

Evidence means any map, table, chart, contract or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent, and must support the position maintained by the subdivider.

FAA means the Federal Aviation Administration.

Factory-built housing means a dwelling which is partially or entirely manufactured in a factory and designated for long-term residential use; built in multiple sections. Factory built homes must be constructed to the standards of the State of Colorado Factory Built Construction Certification Code (8 CRR 1302-3) and bear a certification insignia in compliance with those standards.

Family means an individual living alone, or any number of persons living together as a single household, who are interrelated by blood, marriage, adoption or other legal custodial relationship; or not more than three (3) unrelated adults and any number of persons related to those unrelated adults by blood, adoption, guardianship or other legal custodial relationship. For the purpose of this definition, a bona fide employee of the family who resides in the dwelling unit and whose live-in status is required by the nature of their employment is a member of the family, but this exception shall allow only two (2) employees per dwelling unit.

Fence means an artificially constructed barrier or combination of materials erected vertically to enclose or screen areas of land.

Fixture, lighting means a complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Flammable and/or combustible liquids and gases, storage means the storage and handling of bulk gasoline and bulk flammable fertilizer, propane, natural gas or other flammable liquids or gases.

Floodplain means an area which is adjacent to a stream or watercourse and which is subject to flooding as a result of the occurrence of an intermediate regional flood, and which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. This term includes, but is not limited to, mainstream floodplains, debris fan floodplains and dry wash channels and floodplains.

Flowline means a segment of pipe transferring oil, gas, or condensate between a wellhead and processing equipment to the load point or point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line, or a segment of pipe transferring produced water between a wellhead and the point of disposal, discharge, or loading. This definition of flowline does not include a gathering line.

Food shall mean a raw, cooked or processed edible substance, ice, beverage or ingredient used or intended to be used or for sale in whole or in part for human consumption.

Fully-screened means a combination of fencing, structures, or landscape features and plantings used to visually hide or obscure an object, structure, or use, typically from adjacent properties, trails and street

views, which must substantially conceal the object, structure, or use to the full height, with minor exceptions for required driveways or other reasonable spaces between buildings.

Garage means a fully-enclosed structure accessory to a residence or residences and capable of being used for storage of one (1) or more vehicles, i.e., having a garage door.

Garage, alley-loaded means a garage that is accessed from an alley and not from a street.

Garage, front-facing means a garage with vehicular doors generally parallel to the front property line.

Garage, side-loaded means a garage with vehicular doors generally perpendicular to the front property line.

Hazardous substance means any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

Height means the vertical measurement from the surrounding grade at the base of a structure to its highest point or, for pitched roofs, to the midpoint between the eaves and the highest point of the roof.

Home occupation means an occupation, profession, activity or use conducted within a residential dwelling unit that is incidental and secondary to the use of the residential dwelling unit, which does not alter the exterior of the property or affect the residential character of the residential neighborhood.

Hospital means a state or federal certified facility providing health services primarily for in-patients and medical or surgical care of sick and/or injured humans, including, as an integral part, such related facilities as laboratories, out-patient services, urgent care facilities, rehabilitation and recovery services, training facilities, central service facilities and staff offices.

Human scale means the proportion of a building element or space relative to average human size.

Impervious surface means any surface made of asphalt, concrete, brick, pavers, stone, or similar material which does not readily absorb water.

Improvements means street grading, street surfacing and paving, curbs 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 installations as designated by the City Council or its specified approving authority.

Interference means physical interference and radio frequency interference.

Internal circulation means a continuous network of sidewalks, pathways, and driveways within a site or within multiple sites.

Junk means garbage and all other waste matter, or discarded or unused material such as, but not limited to, salvage materials, scrap metal, scrap materials, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials; manufactured goods, appliances, fixtures, furniture, machinery, motor vehicles or other such items which have been abandoned, demolished or dismantled, or are in such a condition as to be unusable for their original use, but may be used again in present or different form for a new use; discarded or inoperable vehicles, machinery parts and tires; and other commonly considered to be refuse, rubbish or junk.

Land Development Code means Title 18 of the Evans Municipal Code.

Landscaping buffer means a landscape area located along the perimeter of a lot intended to screen or separate land uses either from one another or from a public street.

Landscaping, front lot means the landscaping particular to the front lot line or any line that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two (2) or more street lot lines are of equal length, the applicant or property owner can choose which lot line is to be the front.

Lateral sewer means a sewer which discharges into another sewer and has only building sewers tributary to it.

Laws means all applicable federal, state, and local laws, statutes, constitutions, code, City of Evans Home Rule Charter, ordinances, resolutions, regulations, judicial decisions, rules, permits, approvals or other applicable requirements of the licensor or other governmental entity, agency or judicial authority having the force and effect of law that determines the legal standing of a matter relating to the parties and/or the master license agreement.

Licensee means any person who holds a master license agreement or site plan permit to site, install, construct, collocate, modify, maintain, and operate a wireless communications facility in the public right-of-way.

Livestock trailer washout means a property where trailers used for hauling livestock are washed.

Living plant material includes, but is not limited to, deciduous and coniferous trees, shrubs, vines, perennial plants, cacti, succulents, sod, and native and ornamental grasses. Also includes annual plants provided new plants are planted each year.

Lot means the unit into which land is divided on a subdivision plat or deed, with the intention of offering such unit for sale, lease or separate use, either as an undeveloped or developed site, regardless of how it is conveyed. Lot shall also mean parcel, plat, site or any similar term.

Lot area means the total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, corner means a lot abutting on and at the intersection of two (2) or more streets (public rights-of-way).

Lot depth means the average distance measured from the front lot line to the rear lot line.

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

Lot, front means the area of a property between the principal structure and the front lot line.

Lot frontage means the length of front lot line measured at the street(s) right-of-way line.

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

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

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

Lot line, zero means the location of a building on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line, provided that separations or setbacks between buildings meets all applicable building and fire code provisions.

Lot or property pin means a marker established by certified land survey and set by a land surveyor registered in the State of Colorado to establish accurate location of property lines.

Lot, reverse-frontage means a lot which extends continuously between two (2) parallel, or approximately parallel, streets bounding a block, and which 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 means the distance between the side lot lines, measured congruent with the front lot line.

Manufactured home means any dwelling which is: 1) partially or entirely manufactured in a factory, 2) is not less than twenty-four (24) feet in width and thirty-six (36) feet in length; 3) is installed on an engineered permanent foundation; 4) has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; 5) and is certified pursuant to "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. 5401 et seq. as amended.

Manufacturing/assembly plant means an establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the creation of products, the blending of materials, and other similar uses.

Massing means the relationship between various masses or volumes of a building or structure.

Master license agreement means an agreement entered into between an applicant and the City which governs all of the applicant's installation, construction, and maintenance of small cell wireless communications facilities in the public right-of-way.

Mini storage units mean buildings containing limited size storage areas not to exceed three hundred (300) square feet per unit; designed and used for the keeping of personal property, goods and similar articles of merchandise. Hazardous materials such as flammable liquids, flammable gases and toxic chemicals shall be prohibited.

Mobile home means a manufactured home produced prior to June 15, 1976. No mobile homes are allowed within the City of Evans.

Molding means any of various long, narrow, ornamental surfaces with uniform cross sections.

Motor vehicle means a vehicle required to be registered under C.R.S., Title 42.

Multi-planed means having more than one (1) plane visible from each side of a building.

Museum means a building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited.

National Cooperative Soil Survey means the soil survey conducted by the U.S. Department of Agriculture in cooperation with the State Agricultural Experiment Stations and other federal and state agencies.

Natural Area means aquatic or terrestrial habitats or areas which exist in their natural condition, and which have not been significantly altered by human activity, or which have been restored to as close to their natural condition if disturbed previously by human activity.

Network, or collectively *networks*, means one or more of the wireless communications facilities operated by a wireless carrier to serve its customers.

Nonconforming means a condition of property which was lawfully established or constructed prior to the effective date of this chapter and which does not conform to the requirements of these regulations.

Off-street parking space means the space required to park one (1) passenger vehicle on private land.

Oil and gas facility means equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, E&P waste, or gas. Oil and gas facility may also be referred herein in certain circumstances synonymously as "facility."

Oil and gas location means a definable area where an operator has disturbed, or intends to disturb, the land surface to locate an oil and gas facility. Oil and gas location may also be referred to herein in certain circumstances synonymously as "disturbance area" or "location."

Oil- and gas-related uses means all uses related to the procurement, transfer, storage, and sale of crude oil and natural gas resources. These uses include but are not limited to equipment storage yards, production sites (including oil tanks, well heads, VCU equipment, pig launchers, pig receivers, meter equipment, and separators), injection wells, compressor stations and transfer stations.

Open space means the land which is used for growing grass, shrubs, trees, plants, or flowers or is covered by decorative rock or stone or wood chips, or is otherwise xeriscaped/landscaped. It is not open space if it is overlaid by buildings, patios, signs, driveways, tennis courts, swimming pools, car ports, paved or graveled areas designed primarily for vehicle parking, or areas covered by any other type of structure or impervious surface. Areas which contain less than one hundred (100) square feet, or have any dimension of less than five (5) feet or which fall within the projected roof area of any building, shall not be considered open space.

Operator means an individual, partnership, company or corporation holding a mineral interest in property and exercising that interest through oil and gas drilling on that property.

Outlot means a parcel or parcels of land designated on a plat, and intended to be further subdivided before

development at some point in the future, but which may be initially created under single ownership through a subdivision process.

Overlay zoning district means an area where certain additional requirements are superimposed upon a base zoning district or underlying district, and where the requirements of the base or underlying district may or may not be altered.

Owner means a person with a legal or equitable interest in ownership of real or personal property.

Parcel means a unit or contiguous units of land used by the county assessor to identify taxable property,

typically referring to unplatted land, in the possession of, or recorded as the property of one person,

partnership, joint venture, association or corporation, or other legal entity.

Pedestrian plaza means an open space, generally open to the public, usually surrounded by buildings and/or streets and improved with an impervious surface.

Permanent monument means any structure permanently placed on or in the ground, including those expressly placed for surveying reference.

Permit means a permit issued and described in accordance with the Municipal Code, which is used to regulate, monitor, and control the improvement, construction, or excavation activities, or other work or activity, occurring upon or otherwise affecting City's right-of-way, including right-of-way use, zoning, building, and electrical permits.

Person means any corporation, limited liability company, partnership, proprietorship, individual, or organization, governmental organization, or any natural person.

Physical interference means equipment, vegetation, or a structure which causes reduced use of another's prior mounted equipment, or an obstruction in a necessary line-of-sight path.

Planned unit development (PUD) means an area of land, improved as a residential development, or a combination of uses such as residential, educational, recreational, commercial and industrial, in which normal restrictions of lot sizes, setbacks, densities, land uses, and other criteria may be relaxed in return for development conformance to an approved plan for the total parcel.

Plan, concept means a map of a proposed subdivision, drawn and submitted in accordance with the requirements of adopted regulations, to evaluate feasibility and design characteristics at an early state in the planning.

Plan, preliminary means the map or maps of a proposed subdivision, and specified supporting materials, drawn and submitted in accordance with the requirements of adopted regulations, to permit the evaluation of the proposal prior to detailed engineering and design.

Plat, final means a map and supporting materials of certain described land, prepared in accordance with subdivision regulations, as an instrument for recording of real estate interests with the County Clerk and Recorder.

Plugged and/or abandoned oil and/or gas well means the permanent plugging of an oil and or gas well, the removal of its associated production facilities and the abandonment of its flowlines.

Public property means real property owned or controlled by the City, excluding the public right-of-way.

Real property means any property that is attached directly to land, as well as the land itself. Real property not only includes buildings and other structures, but also rights and interests.

Reasonably feasible means capable of being accomplished or brought about without undue burden or hardship, whether financial or otherwise.

Recessed window or door means a door or window which exterior plane is offset from the exterior wall by at least twelve (12) inches inward.

Recreational vehicle means a transportable structure that is primarily designed for seasonal recreational/vacation, camping and travel uses including, but not limited to, boats, travel trailers, campers, snowmobiles, motorcycles, self-propelled motor homes, and similar vehicles/units.

Replacement Value means the amount it would cost to replace a structure or restore a site to its previous condition considering all aspects of the investment at their current market costs. This amount may be based on estimates or where discrepancies exist the average of three independent estimates, in the sole discretion of the City.

Reservation means a legal obligation to keep property free from development for a stated period of time, not involving any transfer of property rights.

Residential building unit means a building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy, or for business purposes.

Replat means the changing of any existing lot or lots of any subdivision plat previously recorded with the County Clerk and Recorder.

Rights-of-way or right-of-way shall mean any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Roadway means that portion of the street right-of-way designed for vehicular traffic.

Roof, flat means a roof having a slope of less than 1:12, with one (1) being the rise and twelve (12) being the run.

Roof, pitched means a roof having a pitch of at least 1:12, with one (1) being the rise and twelve (12) being the run.

Roof plane means the portion of a roof, whether flat or pitched, by which a straight line would pass through continuously.

Roofline means the profile of or silhouette made by a roof or series of roofs.

Setback means the required unoccupied and unobstructed space, other than landscaping, that lies between a structure and the nearest lot line from the ground upward, except as may be specifically provided in this Title.

Setback, corner side means the space extending from the front yard to the rear yard, between a structure and a right-of-way, and measured perpendicular from the side lot line to the closest point of the structure.

Setback, front means a space extending the full width of the lot, between the front line of a structure and the edge of right-of-way measured perpendicular to the structure at the closest point to the front lot line.

Setback, interior side means the space extending from the front yard to the rear yard, between a structure and the side lot line, not a right-of-way, and measured perpendicular from the side lot line to the closest point of the structure.

Setback, rear means a space extending across the full width of the lot, between a structure and the rear lot line, and measured perpendicular to the structure to the closest point of the rear lot line.

Shared driveway means a driveway that serves two (2) or more lots in order to reduce the number of access points onto a public roadway.

Shared parking means the development and use of parking areas on two (2) or more separate properties for joint use by the businesses or residents on those properties.

Staff supervised residential facilities means a state licensed facility or group of buildings, used to provide twenty-four-hour supervised residential group care for children between ages three (3) and eighteen (18) years old, and for those persons under twenty-one (21) years old who are placed by court order prior to their eighteenth birthday; not intended for placement of violent or repeat offenders.

Street means any street, avenue, boulevard, road, lane, parkway, alley or other way for the movement of vehicular traffic, which is in an existing state, county, or municipal right-of-way; or, a street or way shown upon a plat, heretofore approved, pursuant to law, or approved by official action, and includes the land between street lines, whether improved or unimproved.

Stub street means a street or road extending from within a subdivision boundary and terminating there with no permanent vehicular turnaround. Stub streets are provided to permit adjacent undeveloped parcels of land, to be developed later, with an adjacent connecting street system.

Storage/utility shed means a detached accessory structure, not more than one hundred twenty (120) square feet in extended roof area, used to store tools and equipment such as, but not limited to, lawn mowers, bicycles, garden tools, and similar chattels related to the primary permitted use located on the same lot.

Structure, telecommunication means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

Structure, means anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including, but not limited to signs, accessory buildings, or similar uses.

Subdivision means the division of any land into two (2) or more lots, parcels, tracts, plats, sites or separate interests, or such other division, for the purpose, whether immediate or future, of sale or transfer of ownership, or for building or other development, or for the creation of streets or other rights-of-way. Subdivision shall also mean the consolidation, aggregation, and reconfiguration of lots. Unless otherwise specified, the term subdivision does not apply to any of the following divisions of land:

- A. Division or consolidation of lots in which all lots are greater than thirty-five (35) acres, either before or after the action.
- B. Lots created by order of a court of competent jurisdiction in this state or by operation of law, provided that the City is given notice of, and an opportunity to participate in, any judicial proceedings prior to the entry of any such court order;
- B. Lots created for separate but undivided interests in a tract of land such as joint tenancy, tenancy in common, tenancy in entirety, trust, lien mortgage, deed of trust or other security interest, unless such separate interests apply to less than all of the tract;
- C. Lots created for cemetery lots;
- D. Lots created for an interest in oil, gas, minerals or water which is severed from the surface ownership or real property; or
- E. Lots created for a utility easement or an easement unrelated to the use of the surface estate.

Substantial improvement means any change to an existing improvement that causes the size, height, or area to increase by fifty percent (50%) or more, or which costs fifty percent (50%) or more of the market value of the improvement prior to the change.

Taxidermy means the business of preparing, stuffing, and mounting the skins of animals to make them appear life-like.

Telecommunication facility, see Chapter 18.10.

Temporary means a period of twelve (12) months or less.

Term means the period that the master license agreement is in effect as described in the master license agreement.

Theater means a building, or part thereof, devoted primarily to the showing of motion pictures or for dramatic, dance, musical, or other live or cultural performances.

Toll or tolling shall be to delay, suspend or hold-off on the imposition of a deadline, statute of limitations or time limit.

Trailer shall mean an object with wheels, but without an engine, and designed to be towed by a vehicle, including, but not limited to, travel trailers, trailer homes, boat trailers, utility trailers, horse trailers and trailers for hauling snowmobiles, motorcycles, etc.

Use means any purpose for which a structure or a tract of land is designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation which is conducted in or on a structure or on a tract of land. The term may also be referred to herein as "land use."

Well means an oil or gas well, a hole drilled for the purpose of producing oil or gas (including non-hydrocarbon gases such as carbon dioxide and helium), a class II UIC well, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir, as defined by the State of Colorado Oil and Gas Conservation Commission.

Wireless communication facility, see Chapter 18.10.

Yard means the space that lies between the principal building and the nearest lot line.

Yard, front a space extending the full width of the lot, between the front line of the principal building and the edge of right-of-way measured perpendicular to the building at the closest point to the front lot line.

Yard, rear means a space extending across the full width of the lot, between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Yard, side means the space extending from the front yard to the rear yard, between the building and the side lot line, and measured perpendicular from the side lot line to the closest point of the principal building.

Yard, corner side means the space extending from the front yard to the rear yard between, the building and the side lot line, abutting a street, and measured perpendicular from the side lot line to the closest point of the principal building.

CHAPTER 18.12 AREAS AND ACTIVITIES OF STATE INTEREST

[no change]